

PART I— PROGRAM SCOPE AND INTERIM PROHIBITION

Rule 801— Program Scope

~~This Regulation shall~~ **Rule 801. Program Scope**

~~These set of rules are known as the Regulation for the Control of Underground Storage Tanks, is promulgated in accordance with Act No. 416 of September 22, 2004, as amended, and constitute the rules of the Puerto Rico Environmental Quality Board applicable(EQB) of the Commonwealth of Puerto Rico, for installations with Underground Storage Tank Systems (UST Systems).~~

Rule 802. Purpose

~~A. This Regulation is promulgated to facilities with underground storage tank (UST) systems subject to this Regulation.~~

Rule 802— Purpose

~~This Regulation is promulgated for the comply with the following purposes:~~

- ~~1. To establish the Board's Underground Storage Tank Systems Control Program;Division (USTCD);~~
- ~~2. To providepromote the necessary control overcompliance of facilities with underground storage tanks systemsUST Systems;~~
- ~~3. To implement a notification system andwith requirements for installation, operation and closure of underground storage tank systems; and facilities with UST Systems. Finally; also~~
- ~~4. To protect the human and environmental health and the environment of Puerto Rico, by ensuring a sound management of the underground storage tank systemsUST Systems, preventing, controlling, remediatingremedying and/or mitigation abating existing or potential soil, surface water and groundwaterground water contamination.~~

Rule 803— Applicability

Rule 803. Applicability

~~A. The requirements of this Regulation apply to all owners and operators of a UST system as defined in Rule 805, except as otherwise provided in paragraphs B and C of this Rule.~~

- ~~1.A. Previously deferred UST systems. UST systemsSystems. The UST Systems, previously deferred from Part II, III, IV, V, VII, VIII, X, XI, XII, and XIII (airport hydrant fuel distribution systems, UST systems with field constructed tanks, and wastewater treatment tank systems) and UST systems previously deferred from Part IV (UST systems that store fuel solely for use by emergency power generators) deferred, must begin meeting comply to the requirements of~~

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this ~~part~~Part, as follows:

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ST ~~systems~~Systems installed on or before ~~the~~effective date of ~~rule~~this Regulation, must meet ~~the schedule in~~ the following ~~time~~ table:-

Type of UST System	Part or Rule	Effective Date
UST systems System that store fuel solely for use by in emergency power generators at facilities that garner nuclear energy .	IV	One (1-Year) year after effective date of rule this Regulation.
Airport hydrant fuel distribution systems; UST systems System with field-constructed tanks; and wastewater treatment tank systems under section 402 or 307 (b) of CWA, related to controlled substances under this Regulation .	II (except Rule 809) and III	Three (3-Years) years after effective date of rule this Regulation.
	IV	See the phase in schedule in Rule 828.C
	Rule 809, V, VI , VII, VIII, IX , X, XI, XII, XIII and XIII XIV.	Effective date of rule this Regulation.

Table 1. Compliance schedule for previously deferred UST systems installed ~~after~~before the effective date of ~~rule~~this Regulation.

b)1.

installed after these Regulation come into effect must meet all requirements at installation.

2. Any UST system listed in paragraph C of this Rule must meet the requirements of ~~Rule 804~~.

B. The following UST ~~systems~~System are excluded from the requirements of this Regulation:

- Any UST ~~system~~System holding hazardous wastes listed or identified under ~~Subtitle C of the Solid Waste Disposal Act~~RCRA, or a mixture of such hazardous waste and other regulated substances.
- Any wastewater treatment tank system that is part of a wastewater facility regulated under Section 402 or 307(b) of the Clean Water Act.
- Equipment or machinery that contains regulated substances for operational purposes such as hydraulic lift tanks and electrical equipment tanks.
- Any UST ~~system~~System whose capacity is 110 gallons or less.

5. Any UST ~~system~~System that contains a ~~de minimis~~minimum concentration of a regulated substance.
6. Any emergency spill or overflow containment UST ~~system~~System that is expeditiously emptied after use.
7. Tank and piping volume beneath the surface of the ground is less than ten percent (10%) (~~for~~For example, an aboveground tank).
8. Any UST ~~system~~System that stores any petroleum fraction which is not liquid at standard conditions of temperature and pressure (~~for example, e.g.,~~ liquefied gas). The standard conditions are 60 degrees Fahrenheit and 14.7 pounds per square inch absolute.
9. Fuel storage tanks used to power motors or generators in agricultural production, whose capacity is less than or equal to 1,100 gallons for non-commercial purposes.

C. Septic Deferrals

Parts II, III, IV, V, VII, VIII, X, XI, XII, and XIII do not apply to the following types of UST systems:

1. Aboveground tanks associated with:

- a) Airport hydrant fuel distribution systems; and
- b) Field constructed tanks used as UST systems.

10. tanks.

11. Installing pipes or pipelines (including gatherer lines) that are regulated under 49 USC Chapters 603, and which the Secretary of Transportation has determined that are connected to a pipeline, or are operated or intended to operate pipeline pressure or as an integral part of a pipeline.

12. Surface impoundment, cavity or depression in the ground, pond or lagoon.

13. Runoff collection systems.

14. Tanks continuous flow process.

15. Liquid traps or associated gathering lines directly related to production operations and oil and gas gathering.

16. Storage tanks located in underground area (such as a basement, cellar, mine, underground gallery, pit, or tunnel), if the underground tank is located in or on the soil surface of the underground area.

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~~2. 17. Any UST ~~systems~~System containing radioactive material regulated under the Atomic Energy Act of 1954 (42 USC 2011 and subsequent); et seq.);~~

~~3. **Rule 804.** Any UST system that is part of an emergency generator system at nuclear power generation facilities regulated by the Nuclear Regulatory Commission under 10 CFR Part 50~~

Rule 804— Interim Prohibition for Deferred UST Systems

Interim Prohibition for Deferred UST System

~~A. No person may install an UST ~~system~~System listed in Rule 803.~~CB~~ for the purpose of storing regulated substances unless such UST system (whether single or double wall construction) under this Regulation,~~

- ~~1. Will prevent releases due to corrosion, or structural failure for the operational life of the UST system;~~
- ~~2. Is cathodically protected against corrosion, constructed of noncorrodible material, steel clad with a noncorrodible material, or designed in a manner to prevent the release or threatened release of any stored substance; and~~
- ~~3. Is constructed or lined with material that is compatible with the stored substance.~~

~~Note to paragraph (A): The following codes of practice may be used as guidance for complying with this Rule:~~

- ~~A) NACE International Standard Practice SP-0285, “External Corrosion Control of Underground Storage Systems by Cathodic Protection”;~~
- ~~B) NACE International Standard Practice SP-0169, “Control of External Corrosion on Underground or Submerged Metallic Piping Systems”;~~
- ~~C) American Petroleum Institute Recommended Practice 1632, “Cathodic Protection of Underground Petroleum Storage Tanks and Piping Systems”;~~
~~or~~
- ~~D) Steel Tank Institute Recommended Practice R892, “Recommended Practice for Corrosion Protection of Underground Piping Networks Associated with Liquid Petroleum Storage and Dispensing Systems”.~~

Rule 805— Definitions and Abbreviations

~~This Rule provides definitions of words and phrases applicable to this Regulation. In order to assure uniformity to the greatest extent possible in terms of regulatory process, this~~

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~~Regulation adopted applicable terms and definitions from other Environmental Quality Board regulations and from federal statutes and regulations. Except as stated hereinafter and unless a different meaning of a word or term is clear from its context, these words or terms have the same meaning when used in this Regulation as they have in the statutes or regulations from which they were adopted. In addition to the definitions provided in this Rule, it is necessary to define other terms and phrases used within the context of Part IX: Financial Responsibility Requirements. These other terms and phrases are defined under Rule 864 of this Regulation.~~

Rule 805. Definitions and Abbreviations

A. This Rule provides definitions of words and phrases applicable to this Regulation.

- 1. Abandoned UST system means a System:** ~~A UST system~~System for which the owner has left or ceased to operate. This includes ~~USTs~~UST System that are registered with the Board, but which are no longer being used or for which the owner is not working to permanently close the ~~USTs~~UST System.
- 2. Aboveground release means any:** ~~Any~~ release to ground surface or surface water body. This includes, but is not limited to, releases from the aboveground portion of an underground storage tank system and releases associated with overfills and transfer operations as the regulated substance moves to or from an UST ~~system~~System.
- 3. Accreditation:** The certificate issued by the EQB as an Operator Training School meets the requirements of this Regulation as a provider of an Operator Training Program UST System.
- 4. Accredited Training Program:** Training Program has been accredited by EQB under this Regulation, to provide training to people engaged in activities related to the operation of UST System.
- 5. Accredited Training program:** Training Program that has been accredited by the Board in accordance with this Regulation, to provide training to persons engaged in activities related to operation of UST Systems.
- 6. AEA:** Refers to Federal Law, “Atomic Energy Act of 1946”, as amended (42 USC § 2011 et seq.).
- 7. Airport hydrant fuel distribution system means an:** ~~An~~ UST ~~system~~System that is a combination of one or more tanks directly connected to underground hydrant piping used to fuel aircraft. These systems do not have a dispenser at the end of the piping run, but rather have a hydrant (fill stand). If an aboveground storage tank (AST) is feeding an intermediary tank or tanks, this definition does not include the AST, but does include all underground piping entering and leaving the intermediary tank(s) and the intermediary tank(s). Intermediary tanks are those tanks directly connected to the hydrant piping.

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8. ~~Ancillary equipment means any:~~ Any devices including, but not limited to, such devices as pipelines, fittings, flanges, valves, and pumps, used to distribute, measure, or control the flow of regulated substances to and from an underground storage tank.

9. ~~API refers:~~ Refers to the American Petroleum Institute.

10. ~~Architect means any:~~ Any natural person authorized to practice the profession of architecture in the Commonwealth of Puerto Rico.

11. ~~ASTM refers:~~ Refers to the American Society for Testing Materials.

12. ~~Belowground release means any:~~ Any release of regulated substance to the subsurface of the land and to groundwater. This includes, but is not limited to, release from the belowground portions of an underground storage tank system and releases associated with overfills and transfer operations as the regulated substance moves to or from an underground storage tank.

13. ~~Beneath the surface of the ground means beneath:~~ Beneath the ground surface or otherwise covered with earthen materials.

14. ~~Board or EQB refers:~~ Refers to the Environmental Quality Board of Puerto Rico.

15. ~~Cathodic protection is a technique to prevent corrosion of a metal surface by making that surface the cathode of an electrochemical cell. For example, a tank system can be cathodically protected through the application of either galvanic anodes or an impressed current.~~

16. ~~Bodily harm:~~ Action or omission against a person which suffers physical damage or injury, either because of someone else, or force majeure.

17. ~~Cathodic protection tester means a person:~~ Person who can demonstrate an understanding of the principles and measurements of all common types of cathodic protection systems as applied to buried~~bury~~ or submerged metal pipelines and tank systems. At a minimum, such persons must have education and experience in soil resistivity, stray current, structure-to-soil potential, and component electrical isolation measurements of buried metal pipelines and tank systems.

18. ~~Cathodic protection:~~ A technique to prevent corrosion of a metal surface by making that surface the cathode of an electrochemical cell. For example, a tank system can be

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cathodically protected through the application of either galvanic anodes or an impressed current.

19. ~~CERCLA means: Refer to~~ the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended.

20. ~~Certificate of Registration is the document: Document~~ issued by the Board in which the corresponding identification number is assigned to the registered facility.

21. ~~Certification means when~~ **Certification Exam:** Written or computerized evaluation of a person, in a particular discipline, recognized by EQB and administered by an accredited training school.

22. **Certification:** When the professional, who designed or will perform the specialized activity or action, establishes before the Board that the plans and other documents officially submitted are in compliance with the established laws, regulations and specifications.

23. ~~CFR refers: Refers~~ to the Code of Federal Regulations.

24. ~~Charitable institutions means any: Any~~ non-governmental, non-profit organization established under the laws of Puerto Rico for a public purpose.

25. ~~Class A operator means the individual~~ **Operator:** Individual who has primary responsibility to operate and maintain the ~~underground storage tank system~~ **UST System**, in accordance with applicable requirements established by the ~~Board~~ **EQB**. The Class A ~~operator~~ **Operator**, typically manages resources and personnel, such as establishing work assignments, to achieve and maintain compliance with regulatory requirements.

26. ~~Class B operator means the individual~~ **Operator:** Individual who has day-to-day responsibility for implementing applicable ~~underground storage tank~~ **UST** regulatory requirements established by the ~~Board~~ **EQB**. The Class B ~~operator~~ **Operator**, typically implements in-field aspects of operations, maintenance, and associated recordkeeping for the UST ~~system~~ **System**.

27. ~~Class C operator means the employee~~ **Operator:** Employee responsible for initially addressing emergencies presented by a spill or release from an UST ~~system~~ **System**. The Class C ~~operator~~ **Operator**, typically controls or monitors the dispensing or sale of regulated substances.

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Community water system (CWS)—: A public water system which serves at least ~~45~~ ¹⁵ service connections used by year-round residents or regularly serves at least 25 year-round residents. This definition is taken from the federal drinking water regulations at 40 CFR 141.2 (7-1-02 Edition).

Companies for marketing petroleum: All companies owning facilities that store and distribute oil for sale.

Compatible—means the ability: Ability of two (2) or more substances to maintain their respective physical and chemical properties upon contact with one (1) another for the design life of the tank system under conditions likely to be encountered in the underground storage tank.

Connected piping—means all: All underground pipelines including valves, elbows, joints, flanges, and flexible connectors attached to a tank system through which regulated substances flow. For the purpose of determining how much piping is connected to any individual UST system, the pipeline that joins the two (2) UST systems should be allocated equally between them.

Consumptive use with respect to heating oil means consumed on the premises.

Containment sump—means a: A liquid-tight container intended to prevent leaks and spills of regulated substances from piping, dispensers, pumps, and related components from entering the environment. Containment sumps are typically used underneath product dispensers and/or for enclosing the submersible turbine pump and piping connections at the top of an underground storage tank.

Controlling Interest: Direct ownership of at least fifty (50) percent of the voting stock of another entity that owns or operates a facility; the owner or operator entity shall be considered as a subsidiary of the Controlling Interest.

Corrosion expert—refers to a person: Person who, by means of thorough knowledge of the physical sciences and the principles of engineering and mathematics, acquired by a professional education and related practical experience, is qualified to engage in the practice of corrosion control on buried or submerged metal pipelines systems and metal tanks. Such a person must be certified as being qualified by the National Association of Corrosion Engineers (NACE) or be a registered professional engineer who has certification or licensing that includes education and experience in corrosion control of buried or submerged metal pipelines systems and metal tanks.

De minimis means a very low concentration such that tanks with de minimis concentrations pose a negligible risk to human health and the environment. Examples of tanks which may

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qualify for the *de minimis* exclusion include tanks used to treat stormwater and municipal wastewater and tanks that store potable water which has been disinfected with chlorine.

35. Cost of legal defense: Any expenditure which an owner or operator incurs in defending against claims or actions brought by EPA, by EQB to require corrective action or to recover the costs of corrective actions; on behalf of a third party for bodily injury or property damages caused by an accidental release; by any person to enforce the terms of a financial assurance mechanism.

36. Course Agenda: Outline of the main topics to be covered during the training course, including the time allotted to teach each topic.

37. Course Review: Evaluation of the overall effectiveness of the training, which will test the trainees knowledge of the topics covered in the course.

38. CWA: Refers to the Federal "Clean Water Act of 1977" as amended (33 USC § 251 et seq.).

39. Damage to property: Detriment or damage to property resulting from the act or omission of a person, and that affects the rights or proprietary interests.

40. Dielectric material ~~means a material:~~ Material that does not conduct direct electrical current. Dielectric coatings are used to electrically isolate UST ~~systems~~System from the surrounding soils. Dielectric bushings are used to electrically isolate portions of the UST ~~system~~System (e.g., tank from pipelines).

41. Discharge - see Release

42. Dispenser system ~~means equipment:~~ Equipment located aboveground that meters the amount of regulated substances transferred to a point of use outside the UST system, such as a motor vehicle. This system includes the equipment necessary to connect the dispenser to the ~~underground storage tank system~~UST System.

43. Electrical equipment ~~means underground:~~ Underground equipment that contains dielectric fluid which is necessary for the operation of equipment such as transformers and buried electrical cable.

Engineer means any natural person authorized to practice the profession of engineering in Puerto Rico.

44. Emergency: Any determination made by EQB Executive Director or by Resolution of the Governing Board, before a particular event, any situation or series of situations that endanger actual or imminent threat to any person, property or resource, and which requires immediate attention. Emergency shall also be understood, any abnormality

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caused by a natural or technological event such as: a hurricane, tornado, storm, flood, earthquake, tsunami, landslide, drought, fire, explosion, accident or hazardous materials, among others; any serious public nuisance or a dangerous enemy force by sabotage or by the use of bombs, artillery or explosives of any kind or by atomic, radiological, chemical or bacteriological, as well as, any other means used by the enemy in any part of Puerto Rico and that deserves to be mobilized and used extraordinary human and economic resources from state and municipal level, to remedy or prevent damage which may arise in those circumstance or to prevent or lessen the threat of emergence to become a disaster.

45. Energy Policy Act of 2005 ~~refers;~~ Refers to legislation enacted in 2005 that includes the addition of UST provisions to Subtitle I of the Solid Waste Disposal Act, including, but not limited to, operator training, secondary containment, public record, and delivery prohibition.

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46. Engineer: Any natural person authorized to practice the profession of engineering in Puerto Rico.

47. Environmental Public Policy Act ~~refers;~~ Refers to Puerto Rico Law 416 of September 22, 2004, as amended.

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48. EPA ~~refers;~~ Refers to the U.S. Environmental Protection Agency.

~~EQB or the Board~~ refers to the Environmental Quality Board of Puerto Rico.

49. Exam: Test performed by an Administrator of an Accredited Training School to corroborate the knowledge of a person as an Operator of a UST System. This Exam must, at least, evaluate the knowledge of Class A, Class B and Class C Operators, in accordance with the requirements of this Regulation.

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50. Excavation zone ~~means the volume;~~ Volume containing the tank system and backfill material bounded by the ground surface, walls, and floor of the pit and trenches into which the UST ~~system~~ System is placed at the time of installation.

51. Existing ~~means that an~~ Executive Director of the Board: Highest ranking official of the Board responsible for carrying out the EPA approved UST Program.

52. Existing tank system: Tank system used to contain an accumulation of regulated substances that was operating or for which an installation had commenced before the effective date of this Regulation.

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53. Existing: An underground tank, piping, motor fuel dispensing system, facility, community water system, or potable drinking water well is in place.

~~Existing tank system means a tank system used to contain an accumulation of regulated substances or for which installation has commenced on or before December 22, 1988. Installation is considered to have commenced if:~~

- ~~3. The owner or operator has obtained all federal and Puerto Rico approvals or permits necessary to begin the physical construction of the site or the installation of the tank system; and if,~~
- ~~4. (a) Either a continuous on-site physical construction or installation program has begun, or (b) the owner or operator has entered into contractual obligations which cannot be cancelled or modified without substantial loss for physical construction at the site or installation of the tank system to be completed within a reasonable time.~~

~~54. Facility means a single: Single~~ property or contiguous or adjacent properties used for a common purpose, that are owned or operated by the same person, and on or in which are or were located one (1) or more ~~underground storage tanks~~ UST.

~~55. Farm tank is a: A~~ tank located on a tract of land devoted to the production of crops, or raising animals, including fish, and associated residences and improvements. ~~A farm tank must be located on the farm property.~~ Farm includes fish hatcheries, rangeland and nurseries with growing operations.

~~56. Financial Reporting Year: Most recent 12 consecutive month's period for which it is prepared a report, which could be used to support a financial test. The year of the financial report may include a period of fiscal or calendar year.~~

~~57. Financial Security Provider: An entity that provides financial assurance to an owner and operator of a UST System through one of the mechanisms listed in this Regulation, including a guarantor, an insurer, a group that provides risk retention a guarantor, an entity that issues a letter of credit or an entity that issues a mechanism required by the Commonwealth of Puerto Rico.~~

~~58. Flow-through process tank is a tank: Tank~~ that forms an integral part of a production process through which there is a steady, variable, recurring, or intermittent flow of materials during the operation of the process. Flow-through process tanks do not include tanks used for the storage of materials prior to their introduction into the production process or for the storage of finished products or by-products from the production process.

~~59. Force Majeure: Any event arising from causes beyond the control of the owner and operator or any entity controlled by the owner and operator, including but not limited to, contractors and subcontractors of the owner or operator, that delays or prevents the execution of any obligation, despite the best efforts of the owner and operator to meet~~

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the obligation. The "best efforts to fulfill the obligation" of the owner and operator include best efforts to anticipate any potential event, and best efforts to deal with the effects of any potential event (1) while it is occurring and (2) after the event, so that the delay is minimized to the greatest extent possible. Includes extreme weather conditions that make the scheduled excavation of tanks and pipes impossible or a major event, such as: floods or earthquakes which interrupts regular trading. It does not constitute force majeure, financial inability to perform the required actions and unanticipated costs or expenses associated with or incremental execution.

60. Free product ~~refers to a:~~ A regulated substance that is present as a non-aqueous phase liquid (e.g., liquid not dissolved in water).

61. Gasoline distributor ~~means the owner:~~ Owner of the product or who buys product (gasoline and other fuels) for resale, or the operator or owner of a tank truck who distributes the product to retail gasoline service stations.

62. Gathering lines ~~means any:~~ Any pipeline, equipment, facility, or building used in the transportation of oil or gas during oil or gas production or gathering operations.

63. Geologist ~~means any:~~ Any natural person authorized to practice the profession of geology in Puerto Rico.

~~Hazardous substance UST system means an underground storage tank system that contains a hazardous substance defined in Section 101(14) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (but not including any substance regulated as a hazardous waste under Subtitle C) or any mixture of such substances and petroleum, and which is not a petroleum UST system.~~

64. Governing Board: Senior Authority and highest authority of the Environmental Quality Board consisting of three (3) members, one (1) Chairman, one (1) Vice President and one (1) associate member, appointed by the Governor with the consent of the Senate of the Commonwealth of Puerto Rico.

65. Hazardous Substance: Any substance identified as hazardous under CERCLA and the Federal Regulations (40 CFR Part 302).

66. Heating oil ~~means petroleum:~~ Petroleum that is No. 1, No. 2, No. 4 – light, No. 4 – heavy, No. 5 – light, No. 5 – heavy, and No. 6 technical grades of fuel oil; other residual fuel oil (including Navy Special Fuel Oil and Bunker C); and other fuels when used as substitutes for one of these fuels oils. Heating oil is typically used in the operation of heating equipment, boilers, or furnaces.

67. Hydraulic lift tank ~~means a tank:~~ Tank holding hydraulic fluid for a closed-loop

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mechanical system that uses compressed air or hydraulic fluid to operate lifts, elevators, and other similar devices.

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68. Incident: Release of a controlled substance from a UST System accident, including continuous or repeated exposure to conditions resulting from the release.

69. Independent Laboratory: Location provided with the means to conduct research, experiments and works of a scientific or technical, that is autonomous and self-employed, that does not have by itself or its employees, conflicts of interest with the installation that has UST Systems, regulated under this Regulation.

70. Injection well ~~means a:~~ A well for the underground injection of fluids, including all equipment and necessary accessories for the operation of the well.

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71. Interstitial space ~~means the area:~~ Area between the primary and secondary containment of a double-walled tank, double-walled piping, or other double-walled component. This area is designed to contain a leak from the primary containment and can be tested for a breach of integrity.

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72. Liquid trap ~~means sumps:~~ Sumps, well cellars, and other traps used in association with oil and gas production, gathering, and extraction operations (including gas production plants), for the purpose of collecting oil, water, and other liquids. These liquid traps may temporarily collect liquids for subsequent disposition or reinjection into a production or pipeline stream, or may collect and separate liquids from a gas stream.

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73. Local Government: A term that is generally intended to include: municipalities or other created by law in Commonwealth of Puerto Rico.

74. LPAU: Refer to Puerto Rico Law 170 of August 12, 1988, as amended, Uniform Administrative Procedures Act.

75. LUST: Refer to Leaking Underground Storage Tank".

76. Maintenance ~~means the normal:~~ Normal operational upkeep to prevent an ~~underground storage tank system~~ UST System from releasing product.

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77. Minim: A very low concentration such that tanks with *de minim* concentrations pose a negligible risk to human health and the environment. Examples of tanks which may qualify for the *de minim* exclusion include tanks used to treat storm water and municipal wastewater and tanks that store potable water which has been disinfected with chlorine.

78. ~~Modify or Modification~~ means a revision: Revision, update, adjustment, correction or change in any information included in a facility's notification material, permit application, permit, investigation plan or corrective action plan.

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79. ~~Monitoring System~~ means a system: System capable of detecting leaks or discharge, or both, other than an inventory control system, used in conjunction with an underground storage tank.

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80. ~~Motor fuel~~ means petroleum: Petroleum or a petroleum-based substance that is typically used in the operation of a motor engine, such as motor gasoline, aviation gasoline, No. 1 or No. 2 diesel fuel, or any blend containing one or more of these substances (e.g., motor gasoline blended with alcohol).

81. ~~NACE~~ refers: Refers to the National Association of Corrosion Engineers.

NFPA refers to the National Fire Protection Association, Inc.

82. ~~New tank system~~ means a tank system: Net tangible assets: What remain after deducting liabilities; does not include intangibles such as good faith of customers to the company, or patent rights or royalties.

83. ~~New UST System:~~ A UST System that will be used to contain an accumulation of regulated substances and for which installation has commenced after December 22, 1988. (See also "Existing Tank System") the effective date of this Regulation.

84. ~~NFPAL:~~ Refers to the National Fire Protection Association, Inc.

85. ~~Non-commercial purposes~~ with: With respect to motor fuel means not for resale.

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86. ~~Non-compliance~~ refers to (1) failure: Failure to comply with any requirement of this Regulation, or (2) failure to implement or achieve conditions or actions required under this Regulation.

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Notification means the registration of a tank with this Board pursuant to Rule 809 of this Regulation.

Notified existing tank system refers: Refers to a tank system used to contain an accumulation of regulated substances that was operating, or for which installation has had commenced on or before December 22, 1988 if:

87. 4. The the effective date this Regulation, and the Owner or operator has and Operator

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96. ~~Petroleum UST system means an underground storage tank system~~System: An UST
System that contains petroleum or a mixture of petroleum with ~~de minimis~~**minim** quantities of other regulated substances. Such systems include those containing motor fuels, jet fuels, distillate fuel oils, residual fuel oils, lubricants, petroleum solvents, and used oils.

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97. ~~Pipe or Piping means the hollow: Hollow~~ cylinder or the tubular conduit constructed
of non-earthen materials that routinely contains and conveys regulated substances from the underground tank(s) to the dispenser(s) or other end-use equipment. Such piping includes any elbows, couplings, unions, valves, or other in-line fixtures that contain and convey regulated substances from the underground tank(s) to the dispenser(s). This definition does not include vent, vapor recovery, or fill lines.

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98. ~~Pipeline facilities (including gathering lines) are:~~ Are new and existing pipe rights-of-way and any associated equipment, facilities, or buildings.

99. ~~Post-Secondary Institution means, educative: Educative~~ institution, public or private,
composed by one or more institutional units, demanding as a requirement for admission the certificate or high school diploma or its equivalent and which academic offers conducts to at least an associate's degree; or in any way declare, promise, announce or express the intention of granting grades, diplomas, certificates, titles or other academic acknowledgement for higher education.

~~Potable drinking water well-:~~ Any hole (dug, driven, drilled, or bored) that extends
into the earth until it meets groundwater which:

~~1. Supplies supplies~~ water for a non-community public water system, or

100. ~~2. Otherwise otherwise~~ supplies water for household use (consisting of drinking,
bathing, and cooking, or other similar uses). **~~Such wells may provide water to entities~~**
~~such as a single-family residence, group of residences, businesses, schools, parks,~~
~~campgrounds, and other permanent or seasonal communities.~~

~~Such wells may provide water to entities such as a single family residence, group of~~
~~residences, businesses, schools, parks, campgrounds, and other permanent or~~
~~seasonal communities.~~

101. ~~Previously deferred UST Systems: UST System that were exempt from complying~~
~~with the Regulation for the Control of Underground Storage Tanks, No. 4362 of~~
~~November 14, 1990, which are: fuel distribution systems by hydrants located in~~
~~airports, UST System built on the ground, Tank Systems Wastewater Treatment~~
~~unregulated under section 402 or 307 (b) of CWA and dealing with controlled~~

substances under this Regulation, UST System that store fuel to be used only in emergency power generators in nuclear power generating facilities and UST Systems containing radioactive material.

102. Public water system (PWS)—~~;~~ A system for the provision to the public of water for human consumption through pipes or, after August 5, 1998, other constructed conveyances, if such system has at least fifty (15) service connections or regularly serves an average of at least twenty five (25) individuals daily at least sixty (60) days out of the year. Such term includes: any collection, treatment, storage, and distribution facilities under control of the operator of such system and used primarily in connection with such system; and, any collection or pretreatment storage facilities not under such control which are used primarily in connection with such system. Such term does not include any “special irrigation district.” A public water system is either a “community water system” or a “non-community water system.”

103. Puerto Rico’s Water Law: Refer to Law No. 136 of June 3, 1976, as amended, Conservation, Development and Use of Water Resources Act.

104. Quality Assurance Project Plan—~~means the written:~~ Written document that describes in detail the necessary technical activities for quality control and assurance that must be implemented to ensure the compliance of generated and processed results with the data quality objectives required by the Board.

105. RCHSW: Refer to Regulations for the Control of Hazardous Solid Waste, Regulation No. 2863 of March 5, 1982, as amended.

106. RCRA: Refers to the Federal Law “Resources Conservation and Recovery Act 1976” as amended (42 USC § 6901 et seq.).

107. Recognized Association: An outstanding Legal Entity, in a specific field, formed by a group of associates or partners, for the pursuit of an end. Perform business and educational activities, or any other related activities regarding its end.

Red tag: A tag, device, or mechanism on the tank’s fill pipes that clearly identifies an underground storage tank as ineligible for product delivery. The tag or device is easily visible to the product deliverer and clearly states and conveys that it is unlawful to deliver to, deposit into, or accept product into the ineligible underground storage tank. UST. The tag, device, or mechanism is generally tamper

108. resistant,

109. Regulated substance—~~means: (a) any substance defined in Section 101(14) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA) (but not including any substance regulated as a hazardous waste under Subtitle C; and (b) petroleum, including crude oil or any fraction thereof which is liquid at standard conditions of temperature and pressure (60 degrees Fahrenheit and 14.7~~

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pounds per square inch absolute). The term “regulated substance” includes but is not limited to petroleum. **Registration:** Inscription of a UST System to the Board as set out in this Regulation.

110. Regulated substance: Petroleum and petroleum-based substances comprised of a complex blend of hydrocarbons, such as motor fuels, jet fuel, distillate fuel oils, residual fuel oils, lubricants, petroleum solvents, and used oils; and any substance defined in CERCLA; and petroleum, including crude oil or any fraction thereof which is liquid at standard conditions of temperature and pressure, 60 degrees Fahrenheit and 14.7 pounds per square inch absolute.

Release means any spilling, leaking, emitting, discharging, escaping, leaching or disposing from an underground storage tank into groundwater, surface water or subsurface soils.

111. Release detection means determining: Determining whether a release of a regulated substance has occurred from the UST system into the environment or into the interstitial space between the UST system and its secondary barrier or secondary containment around it.

112. Release: Any spilling, leaking, emitting, discharging, escaping, leaching or disposing from an UST into groundwater, surface water or subsurface soils.

113. Repair means to restore: Restore a tank, pipe, spill prevention equipment, and overfill prevention equipment, corrosion protection equipment, release detection equipment, or other UST system component that has caused a release or a suspected release of product from the UST system or has failed to function properly.

Replaced means

1. For a tank to remove a tank and install another tank.

114. 2. For piping to remove fifty (50) percent or more of piping and install other piping, excluding connectors, connected to a single tank. For tanks with multiple piping runs, this definition applies independently to each piping run.

115. Residential tank is a tank: Tank located on property used primarily for dwelling purposes.

116. Retail gasoline service station means any establishment: Establishment destined to the sale of retail gasoline and other fuels for motor vehicles.

117. RMNHSW: Regulations for the Management of Non-Hazardous Solid Waste.

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Regulation No. 5717 of November 14, 1997, as amended.

118. RWQS: Regulation of Water Quality Standards for the Environmental Quality Board, No. 7837 of March 31, 2010, as amended.

119. SARA ~~means the:~~ Refer to Superfund Amendments and Reauthorization Act of 1986, ~~or any modification or reauthorization as amended.~~

120. School (public or private) ~~means all:~~ All structures, including their annexes, gardens, recreational area and the parking lot, used as a learning site regardless of the educative level of it or that a group of students from more than one educative level meet in one learning site.

121. School hours: The ones established in each educational institution according to the type of organization with which it works.

122. Secondary containment or ~~Secondarily~~ **secondarily contained** ~~means a:~~ A release prevention and release detection system for a tank and/or piping. These systems have an inner and outer barrier with an interstitial space that is monitored for leaks.

~~School hours means the ones established in each educational institution according to the type of organization with which it works.~~

123. Sensitive geologic areas ~~means any:~~ Any of the following: (1) significant aquifers; (2) primary sand and gravel recharge areas; or (3) locations within a radius of 500 feet (152.40 m) of a public or private drinking water supply and sinkholes.

124. Septic tank ~~is a water:~~ Water-tight, covered receptacle designed to receive or process, through liquid separation or biological digestion, the sewage discharged from a building sewer. The effluent from such receptacle is distributed for disposal through the soil and settled solids and scum from the tank are pumped out periodically and hauled to a treatment facility.

125. Significant aquifer ~~means a porous:~~ Porous formation, identified by the current U.S. Geological Survey maps, that contains significant recoverable quantities of water which may or does provide drinking water supplies.

126. Significant non-compliance ~~for:~~ For the purposes of this Regulation refers to non-compliance with requirements established under the Energy Policy Act of 2005, applicable to ~~underground storage tanks~~ **UST**, and which form part of this Regulation.

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127. ~~Spill~~—see: ~~Sec~~ Release

128. ~~Stormwater~~Storm water or wastewater collection system—means piping: Piping, pumps, conduits, and any other equipment necessary to collect and transport the flow of surface water run-off resulting from precipitation or domestic, commercial, or industrial wastewater to and from retention areas or any areas where treatment is designed to occur. The collection of storm water and wastewater does not include treatment except where incidental to conveyance.

129. Substantial Business Relationship: Degree of a business relationship necessary, under applicable laws of the Commonwealth of Puerto Rico, to make a guarantee contract issued concomitant to that relationship to be valid and be enforceable. A guarantee contract is issued "concomitant to that relationship", if it arises from and depends on existing economic transactions between the guarantor and the owner and operator.

130. Substantial Governmental Relationship: Extent of a governmental relationship necessary under applicable state law, to make an added guarantee contract issued incident to that relationship valid and enforceable. A guarantee contract is issued "incident to that relationship", if it arises from a clear commonality of interest in the event of an UST release such as: coterminous boundaries, overlapping constituencies, common ground-water aquifer, or other relationship, other than monetary compensation that provides a motivation for the guarantor to provide a guarantee.

131. Surface impoundment—~~is a natural~~: Natural topographic depression, man-made excavation, or diked area formed primarily of earthen materials (although it may be lined with man-made materials) that is not an injection well and uses the surface where it rests as a structural support to maintain its integrity and content.

132. ~~Tank is a:~~ A stationary device designed to contain or store an a controlled substance* accumulation of regulated substances and which is constructed of non earthen materials (e.g., that are non-earth, such as: concrete, steel, and plastic) that, which provide structural support.

133. ~~Training program~~ means any programCourse Curriculum: Sets of subjects established or approved by for a particular course, where depending on the Board that provides information category subjects are taught related to and evaluates the knowledge operation of a UST Systems.

134. Training Program: Set of training courses in any of the following categories of UST Systems Operator: Class A Operator, Class B, or Operator and Class C operator regarding requirements for UST systems Operator, offered by a Training School.

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135. Training School: An entity that provides initial training and refresher courses in Spanish and English, training in any of the following categories of UST Systems Operator: Class A Operator, Class B Operator and Class C Operator.

136. Training School Administrator: Person responsible for running an Accredited Training Program and monitoring the performance of the Principal and Guest Instructors.

137. Transfer of ownership ~~means a:~~ A change in owner of a facility.

138. UL ~~refers:~~ Refers to the Underwriters Laboratories, Inc.

139. Underground area ~~means an:~~ An underground area, such as a basement, cellar, shaft or vault, providing enough space for physical inspection of the exterior of the tank situated on or above the surface of the floor.

Underground source of drinking water ~~means an:~~ An aquifer or a portion:

1. ~~Which~~ **which** supplies any public or private water supply system; or

2. ~~Which~~ **which** contains sufficient quantity of groundwater to supply to a public water system and currently supplies or could supply drinking water for human consumption; or

~~1.~~ **140. Contains fewer** ~~contains less~~ than 10,000 mg/l total dissolved solids; and is not an exempted aquifer, according to ~~Rule 401 of the~~ Puerto Rico's Underground Injection Control Regulation, No. 3029 of September 14, 1983 as amended.

141. Underground storage ~~Storage Tank or UST:~~ A tank or ~~UST means any one or a~~ combination of tanks ~~including underground pipes and equipment connected thereto,~~ used to contain an accumulation of regulated substances, and the volume of which ~~including the volume of underground pipes connected thereto,~~ is 10 percent or more beneath the surface of the ground. ~~Such term does not include:~~

2. ~~Farm or residential tank of 1,100 gallons or less capacity used for storing motor fuel for noncommercial purposes;~~

UST System Closure Permit: The

3. ~~Septic tank;~~

4. ~~Pipeline facility (including gathering lines);~~

a. ~~Which is regulated under U.S.C. 49 Chapters 601 and 603; or~~

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~~b. Which is an intrastate pipeline facility regulated under state laws as provided in U.S.C. 49 Chapters 601 and 603, and which is determined by the Secretary of Transportation to be connected to a pipeline, or to be operated or intended to be capable of operating at pipeline pressure, or as an integral part of a pipeline~~

~~5. Surface impoundment, pit, pond, or lagoon;~~

~~6. Stormwater or wastewater collection system;~~

~~7. Flow through process tank;~~

~~8. Liquid trap or associated gathering lines directly related to oil or gas production and gathering operations; or~~

~~9. Storage tank situated in an underground area (such as a basement, cellar, mine working, drift, shaft, or tunnel) if the storage tank is situated upon or above the surface of the floor of said underground area.~~

The term **underground storage tank** or **UST** does not include any pipes connected to any tank which is described in paragraphs (1) through (8) of this definition.

Underground Storage Tank Control Program means the regulatory requirements and activities performed with respect to underground storage tanks, as defined in this Regulation, pursuant to the authority delegated to the Environmental Quality Board of Puerto Rico.

142. Underground storage tank system closure permit means the legally enforceable authorization issued by the **UST Control Program-USTCD** to perform the closure activities in accordance with **Rule 810.D.1** of this Regulation.

143. Underground storage tank system installation permit means the **UST System Installation Permit**: The legally enforceable authorization issued by the **UST Control Program-USTCD** to perform installation activities in accordance with **Rule 810.B.1** of this Regulation.

144. Underground storage tank system operation permit means a **UST System Operation Permit**: The legally enforceable document that EQB issues to a UST facility after the source has been installed. The document is designed to minimize land and water contamination by ensuring that **underground storage tank-UST** facility owners achieve and maintain compliance with applicable regulations, and that they cease operation if compliance cannot be maintained.

145. Underground Storage Tanks Control Division (USTCD): Entity that belongs to the Water Quality Area of EQB, responsible for oversight and implementation of

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environmental regulations on the Control of Underground Storage Tanks in Commonwealth of Puerto Rico.

146. Unsaturated zone: Is the subsurface containing water under pressure less than that of the atmosphere, including water held by capillary forces within the soil and containing air or gases generally under atmospheric pressure. This zone is limited above by the ground surface and below by the upper surface of the zone of saturation (the water table).

147. Unsaturated zone ~~is the subsurface containing water under pressure less than that of the atmosphere, including water held by capillary forces within the soil and containing air or gases generally under atmospheric pressure. This zone is limited above by the ground surface and below by the upper surface of the zone of saturation (the water table).~~

148. Upgrade ~~means the addition:~~ Addition or retrofit of some systems such as cathodic protection, lining, or spill and overfill controls to improve the ability of an underground storage tank system to prevent the release of product.

149. USGS: Refers to the United States Geological Survey.

150. UST system ~~System for hazardous substances: A UST System that contains a hazardous substance defined in CERCLA, does not include: any substance regulated as a hazardous waste under RCRA, or tank system means any mixture of such substances and petroleum.~~

151. UST System or Tank System: One or more underground storage tank ~~tanks,~~ connected underground ~~pipeline, underground ancillary pipes, auxiliary~~ equipment and containment system, ~~if any among others.~~

152. Violation ~~means non:~~ Non-compliance or significant non-compliance with any requirement or condition established under this Regulation ~~(and Section 1527 of the Federal Energy Policy Act of 2005 (the Underground Storage Tank Compliance Act of 2005) amending Subtitle I of the Solid Waste Disposal Act.~~

153. Wastewater treatment tank ~~means a:~~ A tank that is designed to receive and treat an influent wastewater through physical, chemical, or biological methods.

154. Well ~~means any:~~ Any perforation, excavation or drilled hole, which depth is greater than the surface dimension, includes all septic systems, underground storage tanks, sinkholes and natural drainage cavities.

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Rule 806 **RESERVED**

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PART II — UST SYSTEMS: DESIGN, CONSTRUCTION, INSTALLATION AND NOTIFICATION

Rule 807 Performance Standards for New UST Systems

Rule 807. Performance Standards for New UST Systems

All owners and operators, in order to prevent releases due to structural failure, corrosion, or spills and overfills for as long as the UST system is used to store regulated substances, all owners and operators of new UST systems, must meet the following requirements:

A. **Tanks.** Each tank must be properly designed and constructed, and any portion underground that routinely contains product must be protected from corrosion, in accordance with a code of practice developed by a nationally recognized association or independent testing laboratory as specified in paragraphs A.1 through A.5 of this Rule. In addition, all new or replaced tanks where installation began after the effective date of this Regulation, must be secondarily contained in accordance with paragraph A.6 of this Rule:

1. The tank is constructed of fiberglass-reinforced plastic; or

~~1. The tank is constructed of fiberglass reinforced plastic; or~~

Note to paragraph A.1: The following codes of practice may be used to comply with paragraph A.1 of this Rule:

A) Underwriters Laboratories Standard 1316, "Glass Fiber Reinforced Plastic Underground Storage Tanks for Petroleum Products, Alcohols, and Alcohol Gasoline Mixtures"; or

B) Underwriter's Laboratories of Canada S615, "Standard for Reinforced Plastic Underground Tanks for Flammable and Combustible Liquids".

2. The tank is constructed of steel and is cathodically protected in the following manner:

a) ~~a)~~ The tank is coated with suitable dielectric material;

b) ~~b)~~ Field-installed cathodic protection systems are designed by a corrosion expert;

c) ~~c)~~ Impressed current systems are designed to allow determination of current operating status in, as required in Part III of this Regulation, Rule 814.C; and

d) ~~d)~~ Cathodic protection systems are operated and maintained in accordance with Rule 814.C or according to guidelines established by the Board; or Part III of this Regulation.

Note to paragraph A.2: The following codes of practice may be used to comply with paragraph A.2 of this Rule:

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- A) ~~Steel Tank Institute Specification “sti P3® Specification and Manual for External Corrosion Protection of Underground Steel Storage Tanks”;~~
- B) ~~Underwriters Laboratories Standard 1746, “Standard for External Corrosion Protection System for Steel Underground Storage Tanks”;~~
- C) ~~Underwriters Laboratories of Candace S603, “Standard for Steel Underground Tanks for Flammable and Combustible Liquids,” and S603.1, “Standard for External Corrosion Protection Systems for Steel Underground Tanks for Flammable and Combustible Liquids,” and S631, “Standard for Isolating Bushings for Steel Underground Tanks Protected with External Corrosion Protection Systems”;~~
- D) ~~Steel Tank Institute Standard F841, “Standard for Dual Wall Underground Steel Storage Tanks”;~~ or
- E) ~~NACE International Standard Practice SP 0285, “External Corrosion Control of Underground Storage Systems by Cathodic Protection,” and Underwriter Laboratories Standard 58, “Standard for Steel Underground Tanks for Flammable and Combustible Liquids”;~~

3. The tank is constructed of steel and ~~eladis coated~~ or jacketed with ~~a noncorrodible non-~~
~~corrosive~~ material; or
4. The tank is constructed of metal without additional corrosion protection measures provided that:

~~Note to paragraph A.3: The following codes of practice may be used to comply with paragraph A.3 of this Rule:~~

- A) ~~Underwriters Laboratories Standard 1746, “Standard for External Corrosion Protection Systems for Steel Underground Storage Tanks”;~~
- B) ~~Steel Tank Institute Specification F894, “ACT 100R Specification for External Corrosion Protection of FRP Composite Steel USTs”;~~
- C) ~~Steel Tank Institute Specification F961, “ACT 100 UR Specification for External Corrosion Protection of Composite Steel Underground Storage Tanks”;~~ or
- D) ~~Steel Tank Institute Specification F922, “Steel Tank Institute Specification for Permatank®”;~~

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~~4. The tank is constructed of metal without additional corrosion protection measures provided that:~~

~~a. a) The tank is installed at a site that is determined by a corrosion expert not to be corrosive enough to cause it to have a release due to corrosion during its operating life; and~~

~~b. b) Owners and operators maintain records that demonstrate compliance with the requirements of paragraph A.4.a of this section, for the remaining life of the tank; or~~

~~5. The tank construction and corrosion protection are determined by the Board to be designed to prevent the release or threatened release of any stored regulated substance~~

~~5. The tank construction and corrosion protection are determined by the Board to be designed to prevent the release or threatened release of any stored regulated substance, in a manner that is no less protective of human health and the environment than paragraphs A.1 through A.4 of this section this Rule; or~~

6. The tank is secondarily contained. Secondary containment must be periodically tested in accordance with Rule 819, Part III of this Regulation. Secondly contained tanks must meet the following:

~~a. a) Be able to contain regulated substances leaked from the primary containment until they are detected and removed; and~~

~~b. b) Be able to prevent the release of regulated substances to the environment, at any time during the operational life of the UST system System.~~

Note to paragraph A.6: The following codes of practice may be used to comply with paragraph A.6 of this section:

~~A) Underwriters Laboratories Standard 58, "Standard for Steel Underground Tanks for Flammable and Combustible Liquids";~~

~~B) Underwriters Laboratories Standard 1316, "Glass Fiber Reinforced Plastic Underground Storage Tanks for Petroleum Products, Alcohols, and Alcohol-Gasoline Mixtures";~~

~~C) Underwriters Laboratories Standard 1746, "Standard for External Corrosion Protection Systems for Steel Underground Storage Tanks";~~

~~D) Steel Tank Institute Standard F841, "Standard for Dual Wall Underground Steel Storage Tanks"; or~~

~~E) Steel Tank Institute Specification F922, "Steel Tank Institute Specification for Permatank®".~~

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B. Piping. The piping that routinely contains regulated substances and is in contact with the ground must be properly designed, constructed, and protected from corrosion, in accordance with a code of practice developed by a nationally recognized association or independent testing laboratory as specified in paragraphs B.1 through B.4 of this Rule. In addition, except for suction piping that meets the requirements of Rule 829.B.1.b.i through v and piping associated with field-constructed tanks and airport hydrant fuel distribution systems, that performs these tests. Also all new or replaced piping where installation began after effective date of rule this Regulation, must be secondarily contained, in accordance with paragraph B.5 of this Rule. The entire piping run must be replaced totally when fifty (50) percent or more of a piping run is replaced.

1. The piping is constructed of ~~non-corrodible~~corrosive material; or

Note to paragraph B.1: The following codes may be used to comply with paragraph B.1 of this Rule:

- A) Underwriters Laboratories (UL) Standard 971, "Standard for Non-Metallic Underground Piping for Flammable Liquids"; or
- B) Underwriters Laboratories of Canada Standard S660, "Standard for Non-Metallic Underground Piping for Flammable Liquids".

2. The piping is constructed of steel and cathodically protected in the following manner:

- a. ~~a)~~ The piping is coated with a suitable dielectric material;
- b. ~~b)~~ Field-installed cathodic protection systems are designed by a corrosion expert;

3. ~~c)~~ Impressed Applied current systems are designed to allow determination of in such a way that let you check the current operating status of system operation as required in Rule 814.C; by Part III, and

- ~~d)~~ Cathodic protection systems are operated and maintained in accordance with Rule 814 or guidelines established by the Board; or

- a. Note to paragraph B.2: The following codes of practice may be used to comply with paragraph B.2Part III of this Rule: Regulation,

- A) American Petroleum Institute Recommended Practice 1632, "Cathodic Protection of Underground Petroleum Storage Tanks and Piping Systems";
- B) Underwriters Laboratories Subject 971A, "Outline of Investigation for Metallic Underground Fuel Pipe";

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~~C) Steel Tank Institute Recommended Practice R892, "Recommended Practice for Corrosion Protection of Underground Piping Networks Associated with Liquid Petroleum Storage and Dispensing Systems";~~

~~D) NACE International Standard Practice SP 0169, "Control of External Corrosion on Underground or Submerged Metallic Piping Systems"; or~~

~~E) NACE International Standard Practice SP 0285, "External Corrosion Control of Underground Storage Systems by Cathodic Protection";~~

34. The piping is constructed of metal without additional corrosion protection measures provided that:

a. The piping is installed at a site that is determined by a corrosion expert to not be corrosive enough to cause it to have a release due to corrosion during its operating life; and

b. ~~a) The piping is installed at a site that is determined by a corrosion expert to not be corrosive enough to cause it to have a release due to corrosion during its operating life; and~~

c. ~~b) Owners and operators maintain records that demonstrate compliance with the requirements of paragraph B.3.a of this Rule for the remaining life of the piping; or,~~

45. The piping construction and corrosion protection are determined by the Board to be designed to prevent the release or threatened release of any stored regulated substance in a manner that is no less protective of human health and the environment than the requirements in ~~paragraphs B.1 through B.3 of this Rule; or~~

6. The piping is secondarily contained. ~~5. The piping is secondarily contained.~~ Secondary containment must be periodically tested in accordance with Rule 849-Part III this Regulation. ~~Secondarily contained piping must meet the following:~~

a. Be able to contain regulated substances leaked from the primary containment until they are detected and removed; and

b. ~~a) Be able to contain regulated substances leaked from the primary containment until they are detected and removed; and~~

c. ~~b) Be able to prevent the release of regulated substances to the environment, at any time during the operational life of the UST system.~~ System.

C. Spill and Overfill Prevention Equipment

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Note to paragraph B.5: The following codes of practice may be used to comply with paragraph B.5 of this Rule:

A) Underwriters Laboratories Standard 971, "Standard for Non-Metallic Underground Piping for Flammable Liquids"; or

B) Underwriters Laboratories Subject 971A, "Outline of Investigation for Metallic Underground Fuel Pipe".

D. ~~Spill and Overfill Prevention Equipment~~

1. ~~Except as provided in paragraphs C.2 and C.3 of this Rule, to~~ prevent spill and overfill associated with the regulated substance transfer to the UST ~~system~~System, owners and operators must use the following spill and overfill prevention equipment:

~~e)a.~~Spill prevention equipment that will prevent release of the regulated substance to the environment, when the transfer hose is detached from the fill pipe (e.g., a spill catchment basin); and

~~d)b.~~ Overfill prevention equipment that will:

~~e)c.i.~~ Automatically shut-off the flow into the tank when the tank is no more than ~~for~~ example, a spill catchment basin); and

~~f)d.~~Overfill prevention equipment that will:

~~i.~~ Automatically shut off the flow into the tank when the tank is no more than ~~ninety~~ nine (95) percent full; or,

ii. Alert the transfer operator when the tank is no more than ninety (90) percent full by restricting the flow into the tank or triggering a high-level alarm.

~~iii.~~ percent full by restricting the flow into the tank or triggering a high-level alarm.

~~iii.~~ Restrict flow thirty (30) minutes prior to overfilling; alert the transfer operator with a high-level alarm one (1) minute before overfilling, or automatically shutoff flow into the tank, so that none of the fittings located on top of the tank are exposed to product line due to overfilling.

2. Owners and operators are not required to use the spill and overfill prevention equipment specified in ~~paragraph C.1 of this Rule~~, if:

~~a)a.~~AlternativeThe Board determines that the alternative equipment is used that is determined by the Board to be no less protective ofprovide equal or higher human health and the environment ~~that~~protection, than the equipment specified in ~~paragraph C.1.a or C.1.b of this Rule~~; or

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b)b. The UST ~~system~~System is filled by transfers of no more than ~~twenty five (25)~~ gallons at one time.

3. Flow restrictors used in vent lines may not be used to comply with ~~paragraph C.1.b of this section~~Rule, when overfill prevention ~~is equipment has been~~ installed or replaced after ~~effective date of rule~~this Regulation.

4. Spill and overfill prevention equipment must be ~~periodically~~ tested in accordance with ~~Rule 818~~Part III of this Regulation.

E. ~~Installation~~

F. ~~Installation~~

1. No person can install a UST ~~system~~System without an installation permit issued by the Board in accordance with ~~Rule 810.B~~Part II. The installation application must be completed in accordance with the ~~procedure informs to be adopted by the~~ PARPCUST (Appendix I)~~Board~~.

2. All UST ~~systems~~System must be properly installed in accordance with a code of practice developed by a nationally recognized association or independent testing laboratory and in accordance with the manufacturer's instructions.

~~Note to paragraph D: Tank and piping system installation practices and procedures described in the following codes of practice may be used to comply with the requirements of paragraph D of this Rule:~~

~~A) American Petroleum Institute (API) Publication 1615, "Installation of Underground Petroleum Storage System", or~~

~~B) Petroleum Equipment Institute Publication RP100, "Recommended Practices for Installation of Underground Liquid Storage Systems", or~~

~~C) National Fire Protection Association Standard 30, "Flammable and Combustible Liquids Code" and Standard 30A, "Code for Motor Fuel Dispensing Facilities and Repair Garages".~~

G. ~~Certification of Installation~~

G. . All owners and operators must ensure that the installation of UST System has been inspected and certified by a licensed professional engineer with experience in installation of ~~underground storage tank systems~~UST System, and certified by the tank and piping manufacturers, in order to demonstrate compliance with ~~paragraph D.2 of this Regulation~~. The installation process must be done in accordance with the process established in the PARPCUST (Appendix I)~~this Rule~~.

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H. Dispenser Systems. Beginning on ~~the~~after effective date of this ~~rule~~Regulation, each UST ~~system~~System must be equipped with under-dispenser containment for any new dispenser system installed.

1. A dispenser system is considered new when both the dispenser and the equipment needed to connect the dispenser to the ~~underground storage tank system~~UST System are installed at an UST on a facility. The equipment necessary to connect the dispenser to the ~~underground storage tank system~~UST System includes check valves, shear valves, unburied risers or flexible connectors, or other transitional components that are beneath the dispenser and connect the dispenser to the underground piping.

2. Under-dispenser containment must be liquid-tight on its sides, bottom, and at any penetrations. Under-dispenser containment must allow for visual inspection and access to the components in the containment system or be continuously monitored for leaks from the dispenser system.

Rule 808 — Upgrading or reconditioning of Existing UST SystemsSystem.

A. Permitted alternative. In accordance with Part VII of this Regulation, owners and operators must permanently close any UST ~~system~~System that does not meet the new UST ~~system~~System performance standards ~~Rule 807~~ or has not been upgraded in accordance with paragraphs B through D of this Rule. This does not apply to previously deferred UST systems described in paragraph E of this Rule and where an upgrade is determined to be appropriate by the Board.

A. — Alternatives Allowed

All existing UST systems must comply with one of the following requirements:

1. ~~New UST system performance standards under Rule 807;~~
2. ~~The upgrading requirements in sections B through D below; or~~

3. ~~Closure requirements under Part VII of this Regulation, including applicable requirements for corrective action under Part VI.~~

B. — Tank Upgrading Requirements

B. . Steel tanks must be upgraded to meet one of the following requirements in accordance with a code of practice developed by a nationally recognized association or independent testing laboratory:

1. **Interior Lining.** Tanks upgraded by internal lining must meet the following:

a) ~~The lining was installed in accordance with the requirements of Rule 816~~Part III of this

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Regulation, and

- ~~b)b.~~ Within ten (10) years after lining, and every five (5) years thereafter, the lined tank is internally inspected and found to be structurally sound with the lining still performing in accordance with original design specifications. If the internal lining is no longer performing in accordance with original design specifications and cannot be repaired in accordance with a code of practice developed by a nationally recognized association or independent ~~testing laboratory that performs tests~~, then the lined tank must be permanently closed in accordance with Part VII of this ~~part~~Regulation.

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2. **Cathodic Protection.** Tanks upgraded by cathodic protection must meet the requirements of ~~Rule 807.A.2.b, e~~Part II of this Regulation, and ~~d~~ And the integrity of the tank must have been ensured using one of the following methods:

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- a. ~~a)~~ The tank was inspected internally and evaluated before the installation of the cathodic protection system to assure that the tank is structurally sound and free of perforations caused by corrosion; or

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- ~~b)~~
b. The tank had been installed for a period less than ten (10) years and is monitored monthly to verify releases, in accordance with Rule 831.E to J~~Part IV of this Regulation~~; or

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- c. ~~e)~~ The tank had been installed for a period ~~of~~ less than ten (10) years and ~~was has been~~ tested to detect perforations caused by corrosion, performing two (2) integrity tests that meet the requirements of Rule 831.F~~Part IV~~. The first integrity test must ~~have been~~be performed before installing the cathodic protection system. The second test must ~~have been~~be performed within three (3) and six (6) months, after the first operation of the cathodic protection system; or

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- d. ~~d)~~ The tank was evaluated to detect perforations caused by corrosion using a method that the Board determines prevents releases, in a manner that provides equal or greater~~higher~~ protection to human health and the environment than that provided in paragraphs B.2.a through B.2.e of this Rule.

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3. **Internal Lining** ~~Combined~~combined with Cathodic Protection; Tanks upgraded by cathodic protection and internal lining must meet the following:

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- a. ~~a)~~ Internal lining was installed in accordance with the requirements of Rule 816~~Part II of this Regulation~~; and

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- b. ~~b)~~ The cathodic protection system meets the requirements of Rule 807.B.2~~Part II~~.

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~~Note to paragraph B: The following historical codes of practice were listed as options for complying with paragraph B of this Rule:~~

~~A) American Petroleum Institute Publication 1631, "Interior Lining and~~

~~Periodic Inspection of Underground Storage Tanks";~~

~~B) National Leak Prevention Association Standard 631, "Interior Lining and Periodic Inspection of Underground Storage Tanks";~~

~~C) NACE International Standard Practice SP 0285, "External Corrosion Control of Underground Storage Tank Systems by Cathodic Protection"; and~~

~~D) American Petroleum Institute Publication 1632, "Cathodic Protection of Underground Petroleum Storage Tanks and Piping Systems".~~

~~Note to paragraph B.1.b: The following codes of practice may be used to comply with the periodic lining inspection requirement of this section:~~

~~A) American Petroleum Institute Recommended Practice 1631, "Interior Lining and Periodic Inspection of Underground Storage Tanks";~~

~~B) National Leak Prevention Association Standard 631, "Entry, Cleaning, Interior Inspection, Repair, and Lining of Underground Storage Tanks"; or~~

~~C) Ken Wilcox Associates Recommended Practice, "Recommended Practice for Inspecting Buried Lined Steel Tanks Using a Video Camera".~~

C. Piping Upgrading Requirements

~~• Metal piping that routinely contains regulated substances and is in contact with the ground must be cathodically protected, in accordance with the corresponding codes of practice established by a nationally recognized association or an independent testing laboratory that performs tests and must meet the requirements of Rule 807.B.2.b, c, and dPart II.~~

~~Note to paragraph C: The codes of practice listed in the note following 807.B.2 may be used to comply with this requirement.~~

D. Spill and Overfill Prevention Equipment

~~• To prevent spilling and overfilling associated with product transfer to the UST systemSystem, all existing UST systemSystem must comply with new UST systemSystem spill and overfill prevention equipment requirements specified in Rule 807.CPart II.~~

E. Upgrade Requirements for Previously Deferred UST Systems

~~Previously deferred wastewater treatment tank systems, airport hydrant. The fuel distribution system for fire hydrants located in airports, TAS systems built on the ground, Tank Systems Wastewater Treatment unregulated under section 402 or 307 (b) of CWA, that process regulated substances and TAS systems, and UST systems with field constructed tanks where~~

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~~that store fuel be used only in emergency power generators in nuclear power generating facilities; previously deferred whose installation commenced on or began before the effective date of rule] must this Regulation, shall meet the following requirements according to in accordance with the time table dates set out in Part I of this Regulation or shall be permanently closed pursuant to in accordance with Part VII of this part- Regulation.~~

1. **Corrosion protection.** UST ~~system~~System components in contact with the ground that routinely contain regulated substances must meet one of the following requirements:

a. ~~a)~~ The new UST ~~system~~System performance standards for tanks at Rule 807.A and for piping at Rule 807.BPart II; or

b. ~~b)~~ Be constructed of metal and cathodically protected according to a code of practice developed by a nationally recognized association or independent ~~testing~~ laboratory and that performs tests, must meets the following:

i. Cathodic protection must meet the requirements of Rule 807.A.2.b, c, and dPart II, for tanks, and Rule 807.B.2.b, c, and d, for piping.

ii. Tanks greater than ~~ten~~ (10) years old without cathodic protection must be assessed to ensure the tank is structurally sound and free of corrosion holes prior to adding cathodic protection. The assessment must be by internal inspection or another method determined by the Board to adequately assess the tank for structural soundness and corrosion holes.

Note to paragraph E: The following codes of practice may be used to comply with this paragraph:

A) NACE International Standard Practice SP 0285, "External Control of Underground Storage Tank Systems by Cathodic Protection";

B) NACE International Standard Practice SP 0169, "Control of External Corrosion on Underground or Submerged Metallic Piping Systems";

C) National Leak Prevention Association Standard 631, "Entry, Cleaning, Interior Inspection, Repair, and Lining of Underground Storage Tanks"; or

D) American Society for Testing and Materials Standard G158, "Standard Guide for Three Methods of Assessing Buried Steel Tanks".

2. **Spill and overfill prevention equipment.** To prevent spilling and overfilling associated with product transfer to the UST ~~system~~System, all previously deferred UST ~~systems~~Systems must comply with new UST ~~system~~System spill and overfill prevention equipment requirements specified in Rule 807.Cfor Part II of this Regulation.

—Rule 809 Notification Requirements

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Rule 809. Register Requirements

A. ~~An owner or and operator must submit notice of a tank system's existence a registration application to the Board to legalize an existing UST System or within ten (10) days of after completing installation of a new UST System activities. This notification, for which the registration application must be submitted with the installation report.~~

A. ~~Note: Owners or operators of UST systems that were in the ground on or after May 8, 1986, unless taken out of operation on or before January 1, 1974, were required to notify the Board. The registration application must be in accordance with the Hazardous and Solid Waste Amendments of 1984, Public Law 98-616, on a form published forms to be adopted by EPA on November 8, 1985 (50 FR 46602) unless notice was given pursuant to section 103 (c) of CERCLA. Owners or operators who have not complied with the notification requirements may use the procedures and application form contained in Appendix I of this Regulation the Board.~~

B. ~~Within 30 days of acquisition, any The person who assumes acquires ownership of a regulated underground storage tank system, except as described in paragraph A of this Rule UST System within thirty (30) days of purchase, must submit a notice of the ownership change to the Board, using the form in Appendix I of this Regulation.~~

B. ~~Owners or operators required a change of ownership application, in accordance with the forms to submit notification under paragraph A or B of this Rule must provide notification to be adopted by the Board of each.~~

C. ~~Owners and operators must submit a registration application for each tank they own. Owners or operators may provide notification registration application for several tanks using one notification form registration application, but owners or operators who own or operate tanks located at more than one place of operation, must file a separate notification form registration application for each separate place of operation.~~

D. ~~All owners or and operators of new UST systems Systems must certify in the notification form registration application that the methods used comply with the following requirements:~~

- ~~1. Installation of tanks and pipelines under Rule 807.E Part II of this Regulation;~~
- ~~2. Cathodic Protection of steel tanks and piping under Rule 807.A and B; Part II of this Regulation (if applies);~~
- ~~3. Financial responsibility under Part IX of this Regulation; and;~~
- ~~4. Release detection under Rule 831 and Rule 832 Part IV of this Regulation.~~

E. ~~All owners or and operators of new UST system System must assure that the installer certifies in the notification form registration application that the methods used to install the tanks and~~

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piping complies with the requirements of ~~Rule 807.D~~Part II of this Regulation.

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- F. ~~Beginning December 22, 1988, any~~Any person who sells a tank intended to be used as an ~~underground storage tank~~UST and that is regulated under this Regulation, must ~~notify~~inform the ~~owner (purchaser) of such tank~~ of the ~~owner's obligations~~obligation to ~~notify~~register with the Board, in accordance with Rule 801 of this Regulation. The statement that appears in paragraph G of this Rule, when used on shipping tickets and invoices, may be used to comply with this requirementRegulation.

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- G. Any person who sells a tank intended to be used as an ~~underground storage tank should~~UST and that is regulated under this Regulation, must include ~~this the following~~ language on its "Statement for Shipping Tickets and Invoices":

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~~[Note: "The Resource Conservation and Recovery Act (RCRA), as amended (Public Law 98-616) requires owners of certain underground storage tanks to notify the corresponding agencies of the existence of their tanks by May 8, 1986. In Puerto Rico, notifications through register are to be provided to the Water Quality Area of the Environmental Quality Board. Notifications for tanks brought into use after May 8, 1986, must be made within 30 days. Refer to EPA's regulations, issued on November 8, 1985 (40 CFR Part 280) to determine if you are affected by this law."]~~

H. Within 30 days of [effective date of rule], all

- H. The owners ~~or~~and operators of UST Systems previously deferred ~~UST systems must, shall~~ submit a notice of tank system existence to the Board, ~~using a register application, according to the form in Appendix I of forms to be adopted by the Board within thirty (30) days after the effective date of this Regulation.~~

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Rule 810- Permits for Underground Storage Tank Systems Permits for UST Systems

A. Installation, Operation, Modification, and Closure Permits

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1. No person shall install, modify, operate, close, or remove an ~~Underground Storage Tank (UST)~~ System without obtaining prior ~~approval~~permit from the Board.
2. Installation and ~~closure permits~~Closure Permits may be ~~administratively~~extended if the ~~facility~~owner requests such an extension in writing ~~more than~~, at least sixty (60) days before the existing permit expires. The ~~board shall~~Board could extend these permits, for a period not exceeding one (1) year after the original expiration date of the permit. This extension must be requested according to the forms to be adopted by the Board.
3. The ~~operation permit~~Operation Permit renewal application shall be submitted sixty (60) days before the existing permit expires. If the renewal application is submitted in the

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established period, the existing operation permit must be ~~administratively~~ extended until the EQB confirms that the facility is in compliance with this Regulation and issues the new permit. This extension must be requested according to the forms to be adopted by the Board.

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4. A copy of the permit and all conditions and attachments, including monitoring records, release detection report and maintenance records, certificate of registration, and evidence of compliance with state and federal financial responsibility, shall be retained ~~at in~~ the facility where the UST System is located.

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B. UST Installation Permit

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1. ~~Application~~

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All Installation Permit applications ~~will~~ must be submitted to the Board and completed in using the application forms provided adopted by the Board and in accordance with Appendix I. These forms must comply with the following provisions of this Regulation. An incomplete application will not be accepted.

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1. The application will include the following documents:

a. The name, physical, postal and electronic address, phone numbers and fax of the person who owns the UST System.

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b. The name, physical, postal and electronic address, phone numbers and fax where UST System is physically located, and the related business, if any.

c. The name, physical, postal and electronic address, phone numbers and fax the UST System operator and the person to contact in case of emergency twenty four (24) hours a) day.

d. The name, physical, postal and electronic address, phone numbers and fax of the person preparing the application.

e. Evidence that the project is in compliance with ~~Article 4.b.3 of~~ the Environmental Public Policy Act.

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f. b) ~~A set of construction~~ Construction plans, including the location of underground storage tanks, pipeline, gas pumps, release detection systems, overfill release prevention systems, among others; properly sealed and signed by an engineer or architect licensed to practice their profession in Commonwealth of Puerto Rico.

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i. e) The professional seal and signature of the engineer or architect must appear in all sheets of construction drawings. It allows the engineer or architect sign and seal only the first page of each set of documents if the first page specifies the total number of pages.

ii. Engineers or architects licensed to practice their profession in the Commonwealth of Puerto Rico must provide a copy of their professional license.

g. A copy of the technical specifications that complement the construction plans. These should be detailed and with specific instructions about any construction method, materials, and equipment to be used in such manner to guarantee optimum structural development.

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h. Details about the structural elements, indicating position, size, effort and anchoring ground. The plans will indicate the design criteria.

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~~e) The engineer or architect's professional seal and signature will appear on all of the construction plan sheets. The engineer or architect will be allowed to sign and seal only the first page of each set of documents if said first page specifies the total number of pages.~~

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~~f) The engineers or architects licensed to practice their profession in Puerto Rico by means of a special permit issued by the Examining Board that regulates them, will provide a copy of this special permit when they submit the project covered by said permit.~~

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i. Description of the spill and overfill release prevention system.

j. Description of performance standards for new UST systems required in this Regulation.

k. Description of construction material of the tanks and piping.

l. Description of the release detection system.

m. Certification of compatibility of the UST system material with the substance to be stored in it.

~~l) A 1:20,000 scale topographic map indicating the exact project location.~~

n. A 1:2400 ~~2,400~~ scale map (one inch equals to 200 feet) covering a radius of 1000 feet (304.8 mts-), indicating the location of the project and of the following activities or resources:

• Primary

- Main recharge areas
- Public drinking water supplysupplies (wells, surface water bodies)
 - Surface water bodies
- Sinkholesdrains or natural drainage cavities
- Marshes ~~or~~and mangroves
- Water quality monitoring Monitoring practice stations water quality (surface ~~or~~and groundwater)
- Injection wells
- Abandoned ~~injection~~Injection or extraction wells abandoned

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- ~~Drinking water or waste water~~ Water treatment plants and wastewater ~~potable (private, public)~~
 - Springs
 - Coastal areas
 - Landfills (municipal, private)
 - ~~Landfills (municipal, private)~~
 - ~~Mines~~ Mining (surface and underground)
 - Quarries
 - ~~Quarries~~
 - Gravel ~~extraction pit~~ or sand ~~pits~~
 - Public ~~buildings~~ Buildings
 - ~~Retailing~~
 - Gas stations
 - Residences
 - Highways
 - Rural routes ~~route~~
 - Electric Power lines
 - Pipelines
 - ~~Pipelines~~
 - Schools (Public and Private) ~~public and Post-Secondary-private~~
 - Institutions of higher education
 - Topographic maps indicating
- o. A 1:20,000 scale topographic map indicating the exact project location and indicating the existing and proposed elevations of the ground, including project location, certifying and demonstrating it is not a floodplain, and indicating the maximum flooding level for that area.
- p. ~~o~~ General description of the predominant soil type in the area where the UST will be located, including but not limited to the following parameters found in the USDA Soil Conservation Service:
- expansion potential (plasticity)
 - drainage
 - erosion potential
 - permeability
 - available water capacity
- q. ~~p~~ Description of the predominant geology in the area where the UST will be located, including but not limited to the formations and structures shown in the maps published by the USGS.
- r. ~~q~~ Hydrologic description of the area where the UST will be located, including but not limited to the following parameters:
- Underground waters (water table or potentiometric surface, saturated zone, non-saturated zone (vadoze zone) flow direction and/or hydraulic gradient.
 - Hydrologic formations (texture, porosity, permeability and condition)
- s. 2. If ~~a~~ The permit application shall be signed by:
- i. The owner and operator of the ~~UST system~~ System, the facility owner or operator of

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the facility, or a duly authorized representative; or

ii. If the UST System or facility is ~~owned~~ by a corporation, partnership, or public agency, the application shall be signed by:

A) A chief executive officer, vice president or an authorized representative; o

B) A partner generally own; or

C) A chief executive officer, chief elected official, or authorized representative of a public agency.

2. When a new UST System will be installed in the same excavation ~~of~~, where there was an existing UST, ~~prior to such~~ System:

a. If the existing UST System was closed permanently:

i. To obtain the Installation Permit for a new UST System, the owner and operator must submit evidence that obtained release letter from the Board.

ii. In case that release letter has not been obtained, must comply with subsection c) of this Rule.

b. If the existing UST System has not been permanently closed, must follow the procedures set out in this Regulation for closure of an UST System and obtain a release letter or comply with subsection c) of this Rule.

c. When the existing UST System was closed permanently and additional measures are required as: Site Investigation, Contamination Extension Determination and Corrective Actions, the Board may allow the owner and operator to carry out the installation, the existing UST system must be permanently closed and the corresponding No Further Action Letter has been activities of the new UST System, simultaneously to the additional measures required by the project, as long as the owner and operator obtain approval of the Board.

i. The owner and operator must submit to the Board the Plan, in accordance with the additional measures required for the project, which should be subject to the provisions of Part VI of this Regulation and according to the forms to be adopted by the Board.

ii. The owner and operator must include the authorization of additional measures required for the project issued prior to issuance of an installation permit. EQB will then by the Board, as part of the documents attached in the Installation Permit application for the new UST System. The Board may issue a conditional installation permit the respective Installation Permit conditioned to the compliance with the approved additional measures.

C. — C. — Operation Permit

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1. Application

All operation permit applications will be submitted to the Board and completed in the application forms provided by the Board and in accordance with Appendix I. These using the forms must comply with the following provisions of this Regulation adopted by the Board. An incomplete application will not be accepted.

The application will include the following information and documents:

- a. a) The name, physical, postal and electronic address, phone numbers and fax of the person who owns the underground storage tank or tanks, UST System.
- b. b) The name, location, mailing physical, postal and electronic address, phone numbers and telephone number fax, where the underground storage tank UST System is physically located, and type of the related business involved, if any.
- c. e) The name, physical, postal and electronic address, and telephone phone numbers of and fax the underground storage tank UST System operator and 24-hour the person to contact in case of emergency contact person, twenty four (24) hours a day.
- d. d) The name and telephone number, physical, postal and electronic address, phone numbers and fax of the person preparing the application.
- e. e) Evidence that the project complies with the Environmental Public Policy Act or submit Affidavit that the project needs not to comply with this.
- f. A description of the underground storage tank including, but not limited to, the underground storage tank UST System, manufacturer, date of installation, and tank capacity, and others.
- g. f) Construction details of the underground storage tank UST System and any auxiliary equipment including, but not limited to, type of primary containment, type of secondary containment (if applicable), spill and overfill prevention equipment, interior lining, and corrosion protection (if applicable), among others.
- h. g) A description of the piping including, but not limited to, the type of piping system, construction, material, corrosion protection, and leak detection among others.
- i. h) A scaled diagram or design or as-built drawing that indicates plans, including the location of the underground storage tank (underground storage tank, piping, auxiliary equipment tanks, pipeline, gas pumps, release detection systems, overfill release prevention systems, among other) with respect to buildings or other landmarks, others, properly sealed and signed by an engineer or architect licensed to practice their profession in Commonwealth of Puerto Rico.
- i) The professional seal and signature of the engineer or architect must appear

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in all sheets of construction drawings. It allows the engineer or architect sign and seal only the first page of each set of documents if the first page specifies the total number of pages.

Engineers or architects licensed to practice their profession in the Commonwealth of Puerto Rico must provide a copy of their professional license.

- j. A 1:20,000 scale topographic map indicating the exact project location.
- k. ~~j)~~ ~~An actualized 1:24002,400~~ scale map (one inch equals to 200 feet) covering a radius of 1000 feet (304.8 mts-), indicating the location of the project and of the following activities or resources:

Primary

- ~~Main~~ recharge areas
- ~~Public drinking water supply~~ supplies (wells, surface water bodies)
- ~~Sinkholes~~drains or natural drainage cavities
- ~~Marshes or~~ mangroves
- ~~Water quality monitoring~~ Monitoring practice stations water quality (surface or groundwater)
- ~~Injection wells~~ Injection or extraction wells abandoned
- ~~Abandoned injection~~ wells abandoned
- ~~Drinking water or waste water~~ Water treatment plants and wastewater potable (private, public)
- ~~Springs~~
- ~~Coastal areas~~
- ~~Landfills (municipal, private)~~
- ~~Mines~~ Landfills (municipal, private)
- ~~Mining~~ (surface, and underground)
- ~~Quarries~~
- ~~Gravel extraction pit~~ or sand pits
- ~~Public buildings~~ Buildings
- ~~Retailing~~ Gasoline Service Station
- ~~Dwellings~~
- ~~Roads~~
- ~~Gas stations~~
- ~~Residences~~
- ~~Highways~~
- ~~Rural routes~~ route
- ~~Electric~~ Power lines
- ~~Pipelines~~
- ~~Schools (Public and Private)~~ and Post-Secondary private)
- ~~Institutions of higher education~~

- l. The description of the ~~proposed~~ monitoring program including, but not limited to, the following ~~where applicable~~:

- Visual inspection procedures
- Spill and overfill release prevention system
- ~~Underground storage tank~~UST release detection methods or inspection procedures
- Inventory reconciliation including gauging and reconciliation methods
- Piping leak detection methods
- Vadose zone sampling locations, and methods and analysis procedures
- Ground water well(s) locations, construction and development methods, sampling,

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and analysis procedures

m. ~~h)~~ Lists of all the substances which have been, are currently, or are proposed to be stored in the ~~underground storage tank or tanks~~ UST System.

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n. ~~m)~~ Current Certificate of Registration issued by EQB.

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o. ~~n)~~ Evidence of any suspect and confirmed releases and evidence of any corrective action conducted at the facility in the last ~~three (3)~~ years.

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p. ~~o)~~ Evidence of written ~~statements on~~ performance ~~claims pertaining~~ related to release detection systems and calibration and maintenance ~~records for such of~~ these systems for the last ~~three (3)~~ years.

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q. ~~p)~~ Evidence of written monitoring and maintenance records for the last ~~three (3)~~ years.

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r. ~~q)~~ Evidence of cathodic protection maintenance record for the last ~~three (3)~~ years (if applicable).

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s. ~~r)~~ Evidence of record of repair, lining, and upgrades for the last ~~three (3)~~ years.

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t. ~~s)~~ Evidence of written periodic testing of secondary containment for the last ~~three (3)~~ years.

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u. ~~t)~~ Evidence of written periodic ~~walkthrough~~ operation, and maintenance ~~walkthrough~~ inspections for the last ~~three (3)~~ years.

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v. ~~u)~~ If the facility is in the LUST List, submit evidence of any corrective action and progress ~~report reports~~ conducted in the last ~~three (3)~~ years.

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w. ~~v)~~ Documentation to show compliance with state and federal financial responsibility requirements applicable to ~~underground storage tanks containing petroleum~~ UST Systems under this Regulation.

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~~w) If the owner or operator of the underground storage tank is a public agency, the application shall include the name of the supervisor of the division, section, or office that operates the underground storage tank.~~

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x. ~~x)~~ The permit application shall be signed by:

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i. ~~i)~~ The ~~underground storage tank owner, underground storage tank and operator, of the UST System, the facility owner or operator of the facility operator,~~ or a duly authorized representative ~~of the owner;~~ or,

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ii. ~~ii)~~ If the ~~tank~~ UST System or facility is owned by a corporation, partnership, or

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public agency, the application shall be signed by:

A.) ~~A) A principal chief~~ executive officer ~~at the level of, vice- president or by~~
an authorized representative. ~~The representative shall be responsible for the overall~~
operation of the facility where the underground storage tank(s) is located; ~~;~~ O

B.) ~~B) A general partner proprietor generally own;~~ or,

C.) ~~C) A principal chief~~ executive officer, ~~ranking chief~~ elected official, or
authorized representative of a public agency.

y. ~~y) Evidence of Operator Training Certificate (of all persons involved in the~~
operation of UST System, Class A ~~;~~ B Operator, Class B Operator, and ~~C~~
operator); ~~Class C Operator of the facility.~~

D. Closure Permit

1. Application

~~All closure permit applications will be presented before to the Board using the forms provided~~
~~in Appendix I for this purpose adopted by the Board. For the UST System closure, the owner~~
~~and operator must comply with the dispositions of Part VII of this Regulation. The owner~~
~~or operator of a UST system must use the document "Procedure, Actions, and Requirements~~
~~for Closure of Underground Storage Tanks (PARPCUST)" (2011), prepared by the Board.~~
An incomplete application will not be accepted. The application shall include the following
information and documents;

- a. The name, physical, postal and electronic address, phone numbers and fax of the person
who owns the UST System.
- b. The name, physical, postal and electronic address, phone numbers and fax where UST
System is physically located, and the related business, if any.
- c. The name, physical, postal and electronic address, phone numbers and fax the UST
System operator and the person to contact in case of emergency twenty four (24) hours
a day.
- d. The name, physical, postal and electronic address, phone numbers and fax of the person
preparing the application.
- e. A description of the UST System including, but not limited to manufacturer, date of
installation and tank capacity.
- f. Evidence that the project complies with the Environmental Public Policy Act or submit
Affidavit that the project need not comply with this.
- g. As built plans, including the location of UST, pipeline, gas pumps, release detection

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systems, overfill release prevention systems, among others; properly sealed and signed by an engineer or architect licensed to practice their profession in Commonwealth of Puerto Rico.

- h. The professional seal and signature of the engineer or architect must appear in all sheets of construction drawings. It allows the engineer or architect sign and seal only the first page of each set of documents if the first page specifies the total number of pages.
- i. Engineers or architects licensed to practice their profession in the Commonwealth of Puerto Rico must provide a copy of their professional licenses.
- j. History of the installation from the beginning, which should include:
 - i. Changes and data owners along all the time who have used the UST
 - ii. Spills history (if any)
 - iii. Documentation evidencing that corrective actions were implemented to control spills
 - iv. Indicate if the facility is in the LUST list
 - v. Narrative of why the UST will be remove
 - vi. Other that the petitioner deems pertinent
- k. Two (2) copies (8.5" x11") of 1:20,000 scale topographic map indicating the exact location of the installation. One must present by a circle the exact location of the facility and indicate by marks with a legend nearby activities and resources.
- l. Evidence of operation and maintenance of leak detection system, wells monitoring practice, recent tests of integrity, cathodic protection testing, etc.
- m. Current Endorsement of Puerto Rico Fire Corps of the facility (In case the UST System is operating at the time of presenting the Permit Closure application).
- n. Other Works General Permit approved by the appropriate state or municipal agency. This should include waste disposal permit, if it is expected to have to remove and dispose contaminated soil and water, this in accordance with Regulations RCHSW and RMNHSW.
- o. Evidence of current Operating Permit issued by the Board. In case of a registered existing UST System before the effective date of this Regulation, submit evidence of current registration certificate and current financial insurance policy responsibility.
- p. Certifications PARPCUST use (ACA 1A and ACA 2A duly completed).
- q. Description of the notification process and actions to take in case of finding free product in soil or groundwater, either as a liquid or vapor, during the activities to be performed (Part VI of this Regulation).
- r. Itinerary with dates of the tasks to be performed on the project for UST System closure.

E. Action Regarding an Application or an Administrative Determination

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1. Installation and Closure Permit

The Board will notify the project owner about the administrative decision made on an installation and closure permit application, within thirty (30) ~~working~~ days after the ~~corresponding~~ application has been submitted. For purposes of this Rule, a submitted application is one that meets all the requirements established in this Regulation. ~~A permit application with incomplete information will not be accepted until all required documents are submitted.~~

2. Operation Permit

a. ~~a)~~ Before EQB issues a new permit or renewal to operate ~~an~~ UST ~~systemSystem~~, EQB shall inspect the UST ~~systemSystem~~ and determine that it complies with the provisions of this Regulation.

b. ~~b)~~ The EQB shall not renew a UST ~~system permitSystem Operation Permit~~, unless the UST ~~systemSystem~~ has been inspected by the EQB within the ~~last twelve (12) months, previous 12 months~~ to the expiration date of the Permit, and the inspection verified that the UST ~~systemSystem~~ complied with ~~all~~ the provisions of this Regulation. ~~If the inspection indicated noncompliance, then EQB shall verify, by a follow-up inspection, that all required corrections have been implemented before renewing the permit. A facilityPermit.~~

i. The Board will notify the owner of the project on the administrative decision on the application for new Operating Permit, within thirty (30) days after the application was filed and that the inspection verified that the UST System ~~all the requirements of this Regulation. For purposes of this Rule, an application is one that meets all the requirements of this Regulation at the time of filing it with the Board. A Permit Application with incomplete information will not in compliance must be subject to the provisions of accepted until all required documents or information have been submitted.~~ ~~Rule 905.K.~~

F. Duration of Permits

1. Installation and Closure Permit

The duration of installation and closure permits issued in accordance with this Regulation will be one (1) year. ~~If previously permitted activities continue after the permit has expired, the facility shall request owner or operator requests an extension of the permit in writing more than sixty (60) days before the existing permit expires. These permits may be administratively extended if the facility requests such an extension. The the Board shall extend these permits this permit for a period, not exceeding one (1) year, after the original expiration date of the permit. This Permit Extension Request shall be submitted using the forms to be adopted by the Board.~~

2. Operation Permit

The duration of the operation ~~permits~~ permit issued in accordance with this Regulation will be three (3) years. All permit renewal applications will be submitted to the Board at least sixty (60) days before the expiration date of the ~~corresponding~~ permit. ~~If the renewal application is submit in the established period,~~ The Board will extend the existing operation permit must be administratively extended Operation Permit until the EQB confirms, with an inspection, that the facility is in compliance with this Regulation and issues the renewal ~~permit. of the Operation Permit.~~ The permit renewal application will be presented in the forms adopted by the Board.

The permit renewal application will be presented in the forms provided for such purpose (Appendix I), including evidence of payment for the corresponding application fees as established in Rule 907.

G. Permit Suspension or Revocation

The Board may ~~issue an Order to Cease and Desist, Order to Show Cause, and revoke any permit issued under~~ according with the provisions of this Regulation, ~~in accordance with the provisions of Clause A and C of Rule 915 of this Regulation. Said administrative order would require cessation. The Board may issue Administrative Orders to request cease of operations and activities at on the project site, except those necessary to.~~ Also, can demand through an Administrative Order to correct, remedy or prevent any environmental damage.

1. ~~The Board may reestablish adverse impact to the permit's effectiveness after the causes or deficiencies that motivated its suspension are corrected~~ environment.

Rule 811— Quality Assurance Project Plan

2. The Board may, in accordance with the provisions of this Regulation, suspend the effectiveness of a Permit. Such permit may be re-established when a request is received and environmental compliance has been verified.

Rule 811. Quality Assurance Project Plan

A. General Requirements

1. Any person who performs sampling activities and sample analysis must comply with the procedure established in the PARPCUST (Appendix I).
2. Ninety (90) days after the closure date, a Final Closure Report must be submitted to the Board as required ~~in Section 6.d of the PARPCUST.~~ This report will be submitted using the forms to be adopted by the Board.
3. All analyses must be performed using the methods approved by the ~~Environmental Protection Agency (EPA).~~ Table 1 and Table 2 of the PARPCUST present the methods that can be used.

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B. Corrective Action Requirements

- ~~The corrective actions Site Investigation Plans and Corrective Action Plans to be implemented carried out must be submitted using the forms to be adopted by the Board. The same must be approved by the Board and must before their implementation and should follow the procedure established in PARPCUST (Appendix I). Corrective action will be required when the results of sample analyses the analysis of samples taken during a site assessment, a closure, or release a spill investigation of an UST system indicates System, indicate levels that exceed any of the action levels established in the following table. 2 of this Rule. Clean-up levels to be used in corrective actions Corrective Actions are those shown presented in the table below. (Please note that the water and soil numbers Table 2.~~
- Otherwise, there are presumptive numbers several mechanisms through which corrective actions can be carry out for a contaminated site. The Board reserves the right to revise will not accept or evaluate Corrective Actions Plans that using these numbers so that they are no less stringent than federal standards. mechanisms until EOB Governing Board issues a Public Policy.

Clean-up levels for groundwater and soil Contaminated with petroleum derived hydrocarbons

Parameter	Clean-up Levels	
	Water	Soil
Benzene	0.005 ppm ^c	5 ppm
Ethylbenzene Ethyl benzene	0.7 ppm ^c	10 ppm
Toluene	1 ppm ^c	10 ppm
Xylene and Isomers	10 ppm ^a	10 ppm
Total Petroleum Hydrocarbons (gasoline)	50 ppm	100 ppm
Total Petroleum Hydrocarbons (diesel)	50 ppm	100 ppm
Total Petroleum Hydrocarbons (oil)	50 ppm	100 ppm
Methyl tertiary butyl ether Methyl Tertiary Butyl Ether (MTBE)	0.012 ppm ^b	39 ppm ^b
Total Lead Concentration	0.015 ppm ^{a, c}	50 ppm

Table 2. Cleaning Levels of Groundwater and Soil Contaminated with Hydrocarbons Oil Products

Notes:

- Maximum contaminant level Drinking Water Regulation.
- P.R. Procedures, Actions and Requirements for Permanent Closure of UST Systems, 2010
- P. R. Water Quality Standards Regulation, revised on March, 2010.

~~d. Risk Assessment is another mechanism by which the Board can determine if a corrective action is required. This mechanism must be approved by public policy of the Board prior to their implementation.~~

a. RWQS.

b. PARPCUST.

c. RWQS.

Rule 812. RESERVED

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PART III— GENERAL OPERATING REQUIREMENTS

Rule 813— Spill and Overfill Control **Rule 813. Spill and Overfill Control**

- A. Owners and operators must ensure that releases due to spills or overfills do not occur. The ~~owner~~owners and ~~operator~~operators must ensure that the volume available in the tank is greater than the volume of product to be transferred to the tank, before the transfer is made and that the transfer operation is monitored constantly, to prevent overfilling and spilling.

~~Note: The transfer procedures described in National Fire Protection Association (NFPA) Standard 385, "Standard for Tank Vehicles for Flammable and Combustible Liquids" or American Petroleum Institute Recommended Practice 1007, "Loading and Unloading of MC 306/DOT 406 Cargo Tank Vehicles" may be used to comply with paragraph (A) of this Rule. Further guidance on spill and overfill prevention appears in American Petroleum Institute (API) Recommended Practice 1621, "Bulk Liquid Stock Control at Retail Outlets".~~

- B. ~~The owner and operator~~owners and operators must report, investigate, and clean up any spill and overfill in accordance with ~~Rule 840~~Part V of this Regulation.

Rule 814— Operation and Maintenance of Corrosion Protection **814— Rule** **814—**

Operation and Maintenance of Corrosion Protection

All owners and operators of metal UST ~~systems~~Systems with corrosion protection must comply with the following requirements, to ensure that ~~releaser~~releases due to corrosion are prevented until the UST ~~system~~Systems is permanently closed or undergoes a change-in-service, pursuant to ~~Rule 851~~Part VII of this Regulation:

- A. All corrosion protection systems must be operated and maintained, to continuously provide corrosion protection to the metal components of that portion of the tank and piping that routinely contain regulated substances and are in contact with the ground.
- B. All UST ~~systems~~Systems equipped with cathodic protection systems must be inspected and certified for proper operation, by a qualified cathodic protection tester in accordance with the following requirements:
1. Frequency. ~~All~~ cathodic protection systems must be tested within six (6) months of installation and, at least, every three (3) years thereafter;
 2. Inspection Criteria. The criteria that are used to determine that the cathodic protection is adequate, as required by this Rule, must be in accordance with a code of practice developed by a nationally recognized association.

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Note to paragraph B: The following codes of practice may be used to comply with paragraph B of this Rule:

A) NACE International Test Method TM 0101, "Measurement Techniques Related to Criteria for Cathodic Protection on Underground or Submerged Metallic Tank UST Systems";

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B) NACE International Test Method TM0497, "Measurement Techniques Related to Criteria for Cathodic Protection on Underground or Submerged Metallic Piping Systems";

C) Steel Tank Institute Recommended Practice R051, "Cathodic Protection Testing Procedures for sti P3 USTs";

D) NACE International Standard Practice SP 0285, "External Control of Underground Storage Tank Systems by Cathodic Protection"; or

E) NACE International Standard Practice SP 0169, "Control of External Corrosion on Underground or Submerged Metallic Piping Systems".

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C. UST systems with impressed current cathodic protection systems must be inspected, in conformity with this Rule 814.B, every sixty (60) days to ensure that the equipment is running properly.

D. For UST systems using cathodic protection, records of the operation of the cathodic protection must be maintained, in accordance with Rule 817 Part III this Regulation, to demonstrate compliance with the performance standards in this Rule. These records must provide the following:

1. The certified results of all the inspections required in paragraph C of this Rule; and

2. The results of all testing required in paragraph B of this Rule.

Rule 815-- Compatibility **Rule 815. Compatibility**

A. Owners and operators must use an UST system Systems, made of or lined with materials that are compatible with the substance stored in the UST system System.

B. Owners and operators storing any regulated substance containing greater than ten (10) percent ethanol or greater than twenty (20) percent biodiesel, or any other regulated substance identified by the Board, must use one or more of the following methods to demonstrate UST system System compatibility with these regulated substances:

1. Certification or listing of UST system Systems components by a nationally recognized, independent testing laboratory, for use with the regulated substance stored;

2. Equipment or component manufacturer approval. The manufacturer's approval must be in writing, indicate an affirmative statement of compatibility, specify the range of biofuel blends the component is compatible with, and be from the equipment or component manufacturer; or
3. Another method determined by the Board to be no less protective of human health and the environment than the methods listed in paragraphs B.1 or B.2 of this Rule.

~~C. Owners and operators must maintain the following records in accordance Rule 817 for the life of the equipment or component:~~

- ~~1. Documentation of compliance with paragraph B. of this Rule, as applicable; and~~
- ~~2. Records of all equipment or components installed or replaced after [effective date of rule]. At a minimum, each record must include the date of installation or replacement, manufacturer, and model.~~

Rule 816-- Repairs Allowed

Rule 816. Repairs Allowed

Owners and operators must ensure that repairs will prevent release due to structural failure or corrosion as long as the UST ~~system~~**Systems** is used to store regulated substances. The repairs must meet the following requirements:

- A.** Repairs to UST ~~systems~~**Systems** must be properly conducted in accordance with a code of practice developed by a nationally recognized association or an independent testing laboratory that performs these repairs.

~~Note to paragraph A: The following codes of practice may be used to comply with paragraph A of this Rule:~~

- ~~A) National Fire Protection Association Standard 30, "Flammable and Combustible Liquids Code";~~
- ~~B) American Petroleum Institute Recommended Practice RP 2200, "Repairing Crude Oil, Liquefied Petroleum Gas, and Product Pipelines";~~
- ~~C) American Petroleum Institute Recommended Practice RP 1631, "Interior Lining and Periodic Inspection of Underground Storage Tanks";~~
- ~~D) National Fire Protection Association Standard 326, "Safeguarding of Tanks and Containers for Entry, Cleaning, or Repair";~~
- ~~E) National Leak Prevention Association Standard 631, "Entry Cleaning, Interior Inspection, Repair, and Lining of Underground Storage Tanks"~~

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~~F) Steel Tank Institute Recommended Practice R972, "Recommended Practice for the Addition of Supplemental Anodes to sti P3@ Tanks";~~

~~G) NACE International Standard Practice SP 0285, "External Control of Underground Storage Tank Systems by Cathodic Protection"; or~~

~~H) Fiberglass Tank and Pipe Institute Recommended Practice T-95-02, "Remanufacturing of Fiberglass Reinforced Plastic (FRP) Underground Storage Tanks".~~

~~B.~~ Repairs to fiberglass-reinforced plastic tanks may be made by the manufacturer's authorized representatives or in accordance with a code of practice developed by a nationally recognized association or an independent testing laboratory that performs this type of work.

~~C.~~ Metal pipe sections and fittings that have released product as a result of corrosion or other damage must be replaced. Non-corrodible pipes and fittings must be repaired in accordance with the manufacturer's specifications.

~~D.~~ Repaired tanks and piping must be tightness-tested in accordance with ~~Rule 831.F and Rule 832.B~~ ~~Part IV~~, within ~~thirty (30)~~ days following the date of the completion of the repair, except as provided in ~~paragraphs D.1 through D.4~~ below. The certified results of the mechanical integrity tests must be submitted to the Board within twenty (20) calendar days after the test date.

1. The repaired tank is internally inspected in accordance with a code of practice developed by a nationally recognized association or an independent testing laboratory;

2. The repaired portion of the UST ~~system~~ ~~Systems~~ is monitored monthly for releases in accordance with a method specified in ~~Rule 831.E through Rule 831.J~~ ~~Part III~~;

3. UST ~~systems~~ ~~Systems~~ with secondary containment must be tested as specified in ~~Rule 819~~ ~~Part III~~, within ~~thirty (30)~~ days following the completion of any repair. Tanks using interstitial sensors must be tested using a vacuum, pressure, or liquid method in accordance with one of the criteria listed in ~~Rule 819.A.1.b~~ ~~this Part~~, following any repair; or

4. Another test method is used that is determined by the Board to be no less protective of human health and the environment than those listed above.

~~E.~~ Within six (6) months following the repair of any cathodically protected UST ~~system~~ ~~System~~, the cathodic protection system must be tested in accordance with ~~Rule 814.B and C~~ ~~Part III~~, to ensure that it is operating properly.

~~F.~~ Within ~~thirty (30)~~ days following any repair to spill or overfill prevention equipment, the repaired spill or overfill prevention equipment must be tested in accordance with ~~Rule 818~~ ~~Part III~~, to ensure it is operating properly.

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G. ~~UST system owners and operators must maintain records in accordance with Rule 817 of each repair until the UST system is permanently closed or undergoes a change in service pursuant to Rule 851.~~

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Rule 817 Reporting and Recordkeeping

Rule 817. Reporting and Recordkeeping

Owners and operators of UST ~~systems~~Systems shall allow Board personnel, advisors and representatives to perform inspections, monitoring, and testing and must cooperate with requests for document submission of the monitoring and testing required of the owner or operator pursuant to Puerto Rico Environmental Public Policy Act (~~Law No. 9~~)and this Regulation.

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A. Owners and operators must submit the following information to the Board;

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1. Notification for all UST ~~systems (Rule 809)~~Systems, which includes certification of installation for new UST ~~systems (Rule 807.E)~~Systems and notification when any person assumes ownership of an UST ~~system (Rule 809.B)~~Systems (Part II);

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2. Reports of all releases including suspected releases (~~Rule 837~~Part V), spills and overfills (~~Rule 840~~Part V), and confirmed releases (~~Rule 843~~Part VI);

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3. Corrective actions planned or taken including initial abatement measures (~~Rule 844~~), free product removal (~~Rule 844~~), investigation of soil and groundwater cleanup (~~Rule 845~~), corrective action plan (~~Rule 846~~Part VI);

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4. ~~A closure permit application must be submitted before a permanent closure (Rule 851); and~~

5. ~~A notification before change in service (Rule 851).~~

B. Recordkeeping

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B. Owners and operators must maintain the following information;

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1. A corrosion expert's analysis of site corrosion potential if corrosion protection equipment is not used (~~Rule 807.A.4; Rule 807.B.3~~Part II);

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2. Documentation on the operation of corrosion protection equipment (~~Rule 814.D~~Part III);

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3. Documentation of compatibility for UST ~~systems (Rule 815.C)~~Systems (Parte III);

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4. Records for all UST ~~system~~System equipment installed or replaced after ~~the~~ effective date of ~~rule~~ (~~Rule 815.C~~this Regulation (Parte III);

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5. Documentation on UST ~~system~~System repairs (~~Rule 816.F~~Part III);
6. Documentation of compliance for spill and overfill prevention equipment (~~Rule 818.C~~Part III);
7. Documentation of compliance for tanks, piping, and containment sumps using interstitial monitoring (~~Rule 819.C~~Part III);
8. Documentation of periodic walkthrough inspections (~~Part III~~~~Rule 820.B~~);
9. Recent compliance with release detection requirements (~~Rule 833~~Part IV);
10. Results of the site evaluation conducted at a permanent closure (~~Rule 854~~Part VII); and
11. Documentation of operator training (~~Rule 826~~Part III).

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C. Availability and Maintenance of Records

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C. Owners and operators must keep required records available for inspection by Board representatives, as required:

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1. At the facilities where the UST ~~system~~System is located or
2. At a readily available alternate site.
3. In the case of permanent closure records required under ~~Rule 854~~Part VII, owners and operators are also provided with the additional alternative of mailing closure records to the Board if they cannot be kept at the site or an alternative site as indicated above. All documents must be submitted to the Board in Portable Document Format (PDF).

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Rule 818 Periodic Testing of Spill and Overfill Prevention Equipment

Rule 818. Periodic Testing of Spill and Overfill Prevention Equipment

A. Owners and operators of UST ~~systems~~Systems with spill and overfill prevention equipment must meet the following requirements to ensure the equipment is operating properly and will prevent releases to the environment:

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1. Spill prevention equipment (such as a catchment basin, spill bucket, or other spill containment device) must prevent releases to the environment by meeting one of the following:

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- a. ~~a~~) The spill prevention equipment has two (2) walls and the space between the walls is monitored continuously to ensure the integrity of the inner and outer walls is maintained; or

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~~b. b)~~ The spill prevention equipment is tested at installation and at least once every ~~twelve (12)~~ months to ensure the spill prevention equipment is liquid tight by using vacuum, pressure, or liquid testing in accordance with one of the following criteria:

i. Requirements developed by the manufacturer (~~Note:~~ Owners and operators may use this option only if the manufacturer has developed testing requirements);

ii. Code of practice developed by a nationally recognized association or independent testing laboratory; or

~~iii. Requirements determined by the Board to be no less protective of human health and the environment than the requirements listed in paragraphs A.1.b.i and ii of this Rule; and~~

~~2. Overfill prevention equipment must be tested at installation and at least once every three years. At a minimum, testing must ensure that overfill prevention equipment is set to activate at the correct level specified in Rule 807.C Part II and will activate when regulated substance reaches that level. Testing must be conducted in accordance with one of the criteria in paragraph A.1.b of this Rule.~~

~~B.~~ Owners and operators ~~UST System~~ must begin meeting these requirements as follows:

~~1. For UST systems in use, on or before [the effective date of rule], this Regulation. ;~~

~~a) Not later than [one year after effective date of rule] for spill prevention equipment; and~~

~~b) For overfill prevention equipment, not later than the phase in schedule in the following table:~~

Phase-In Schedule For Overfill Prevention Equipment Testing	
Criteria	Date By Which First Test Must Be Conducted
One or more USTs at the facility were installed on or before 12/22/1988	[1 year after effective date of rule]
No USTs at the facility were installed on or before 12/22/1988 and at least one UST at the facility was installed on or before 12/22/1998	[2 years after effective date of rule]
All USTs at the facility were installed after 12/22/1998	[3 years after effective date of rule]

~~2. For UST systems brought into use after [effective date of rule], these requirements apply at installation.~~

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C. Owners and operators must maintain the following records in accordance with **Rule 817Part II**, for spill and overfill prevention equipment:

1. All records of spill prevention equipment testing and overfill prevention equipment testing must be maintained for three **(3)** years; and
2. For spill prevention equipment not tested every **twelve (12)** months, documentation showing that the spill prevention equipment has two walls and is monitored continuously. Owners and operators must maintain this documentation for as long as the spill prevention equipment is monitored continuously, and for three **(3)** additional years after continuous monitoring ends.

Note to paragraphs A.1.b and A.2: The following codes of practice may be used to comply with paragraphs A.1.b and A.2 of this Rule:

A) ~~Petroleum Equipment Institute's PEI RP1200, "Recommended Practices for the 819. Periodic Testing and Verification of Spill, Overfill, Leak Detection and of Secondary Containment Equipment at UST Facilities"~~

Rule 819 Periodic Testing of Secondary Containment

A. Owners and operators of UST ~~systems~~**Systems** with secondary containment using interstitial monitoring must ensure the integrity of all interstitial areas (including all containment sumps used for interstitial monitoring).

1. Tanks must meet one (1) of the following:

- a. a)** The interstitial space is continuously monitored; or
- b. b)** The interstitial space is not continuously monitored and the integrity of the interstitial space is ensured at least once every three **(3)** years by using vacuum, pressure, or liquid testing in accordance with one of the following criteria:
 - i. Requirements developed by the manufacturer (~~Note: Owners and operators may use this option only if the manufacturer has developed integrity testing requirements~~);
 - ii. Code of practice developed by a nationally recognized association or independent testing laboratory; or
 - iii. Requirements determined by the Board to be no less protective of human health and the environment than the requirements listed in ~~paragraphs A.1.b.i and ii of~~ this Rule;

2. Piping must meet one (1) of the following:

- a. a)** The interstitial space is continuously monitored using vacuum, pressure, or a liquid-filled interstitial space; or

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b. b) The interstitial space is monitored using an interstitial monitoring method not listed in paragraph A.2.a of this Rule and the integrity of the interstitial space is ensured at least once every three years by using vacuum, pressure, or liquid testing in accordance with one (1) of the criteria listed in paragraph A.1.b of this Rule; and

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3. Containment sumps must meet one of the following:

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a. a) The containment sump has two walls and the space between the walls is continuously monitored; or

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b. b) The containment sump is tested at least every three (3) years to ensure the containment sump is liquid tight by using vacuum, pressure, or liquid testing in accordance with one of the criteria listed in paragraph A.1.b of this Rule.

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Note to paragraphs A.1.b, A.2.b, and A.3.b: The following codes of practice may be used to comply with paragraphs A.1.b, A.2.b, and A.3.b of this Rule:

A) Steel Tank Institute Recommended Practice R012, "Recommended Practice for Interstitial Tightness Testing of Existing Underground Double Wall Steel Tanks";

B) Fiberglass Tank and Pipe Institute Protocol, "Field Test Protocol for Testing the Annular Space of Installed Underground Fiberglass Double and Triple Wall Tanks with Dry Annular Space"; or

C) Petroleum Equipment Institute's PEI RP1200, "Recommended Practices for the Testing and Verification of Spill, Overfill, Leak Detection and Secondary Containment Equipment at UST Facilities".

B. Owners and operators of UST systems using interstitial monitoring must begin meeting this requirement as follows:

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1. For UST systems in use on or before [on the effective date of rule], not later than the phase in schedule in the following table: this Regulation.

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Phase In Schedule For Interstitial Area Testing	
Criteria	Date By Which First Test Must Be Conducted
One or more USTs at the facility were installed on or before 12/22/1988	[1 year after effective date of rule]
No USTs at the facility were installed on or before 12/22/1988 and at least one UST at the facility was installed on or before 12/22/1998	[2 years after effective date of rule]
All USTs at the facility were installed	[3 years after effective date of rule]

after 12/22/1998

rule}

2. For UST systems brought into use after [effective date of rule], these requirements apply at installation.

C. Owners and operators must maintain the following records in accordance with Rule 817 Part III, for the time frames indicated for each tank, piping, and containment sump that uses interstitial monitoring:

1. Records of interstitial space testing must be maintained for three (3) years; or
2. As ~~appropriate~~applied, records demonstrating: the tank is using continuous interstitial monitoring; the piping is using continuous interstitial monitoring with vacuum, pressure, liquid-filled interstitial space; and the containment sump has two (2) walls and uses continuous interstitial monitoring. Owners and operators must maintain these records for as long as the tank, piping, or containment sump uses one of these continuous methods of interstitial monitoring, and for three (3) additional years after continuous monitoring ends.

Rule 820.

Rule 820 Periodic Operation and Maintenance Walkthrough Inspections

A. To properly operate and maintain UST ~~systems~~Systems, owners and operators must meet ~~one~~with all of the following:

1. Conduct a walkthrough inspection at least once every thirty (30) days that, at a minimum and as appropriate to the facility, checks the following equipment as specified:
 - a. ~~a)~~ Spill prevention equipment - open and visually check for any damage; remove any liquid or debris; check each fill cap to make sure it is securely on the fill pipe; and for spill prevention equipment with continuous interstitial monitoring, check for a leak in the interstitial area;
 - b. ~~b)~~ Sumps - open and visually check for any damage, leaks to the containment area, or releases to the environment; remove any liquid (in contained sumps) or debris; and for sumps with continuous interstitial monitoring, check for a leak in the interstitial area;
 - c. ~~c)~~ Dispenser cabinets - open and visually check for any damage, leaks to the containment area, or releases to the environment; remove any liquid (in dispensers with under-dispenser containment) or debris; and for under-dispenser containment with continuous interstitial monitoring, check for a leak in the interstitial area;
 - d. ~~d)~~ Monitoring/observation wells - check covers to make sure they are secured;
 - e. ~~e)~~ Cathodic protection - check to make sure impressed current cathodic protection rectifiers are on and operating; and ensure records of three (3) year cathodic protection

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testing and ~~sixty (60)~~ day impressed current system inspections are reviewed and current; and

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~~f. f)~~ Release detection systems - check to make sure the release detection system is on and operating with no alarms or other unusual operating conditions present; check any devices such as tank gauge sticks, groundwater bailers, and hand-held vapor monitoring devices for operability and serviceability; and ensure records of release detection testing are reviewed monthly and current; or

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2. Conduct operation and maintenance walkthrough inspections according to a standard code of practice developed by a nationally recognized association or independent testing laboratory that are comparable to ~~A.1 of this Board or Rule.~~

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~~3. Conduct operation and maintenance walkthrough inspections developed by the Board that are comparable to paragraph A.1 of this Rule.~~

~~B.~~ Owners and operators must maintain records in accordance with ~~Rule 817 of Part III of this Regulation,~~ operation and maintenance walkthrough inspections for ~~one year~~ **three (3) years**. The record must include a listing of each area checked, whether each area checked was acceptable or needed to have any action taken, and a description of any actions taken to correct an issue. Operating and maintenance walkthrough inspection should be made using the forms to be adopted by the Board.

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~~Note to paragraph A.2: the following code of practice may be used to comply with paragraph A.2 of this Rule:~~

~~A) Petroleum Equipment Institute Recommended Practice RP 900, "Recommended Practices for the Inspection and Maintenance of UST Systems".~~

Rule 821 General Requirement for All UST Systems

~~Not later than [three years after the effective date of rule], all owners and operators of UST systems must ensure they have designated Class A, Class B, and Class C operators who meet the requirements of this subpart.~~

Rule 822 Designation of Operators

~~UST system owners and operators must designate:~~

~~A. At least one Class A and one Class B operator for each UST or group of USTs at a facility; and~~

~~B. Each individual who meets the definition of Class C operator at the UST facility as a Class C operator.~~

Rule 823 Requirements for Operator Training

UST system owners and operators must ensure Class A, Class B, and Class C operators meet the requirements of this Rule. Any individual designated for more than one operator class must successfully complete the required training program or comparable examination according to the operator class in which the individual is designated.

A. ~~Class A operators. Each designated Class A operator must either be trained in accordance with paragraphs A.1 and A.2 of this Board or pass a comparable examination in accordance with paragraph E of this Board.~~

1. ~~At a minimum, the training program for the Class A operator must provide general knowledge of the requirements in this paragraph. At a minimum, the training must teach the Class A operators, as applicable, on the purpose, methods, and function of:~~

~~a) Spill and overfill prevention;~~

~~b) Release detection;~~

~~e) Corrosion protection;~~

~~a. d) Emergency response;~~

~~b. e) Product and equipment compatibility;~~

~~f) Financial responsibility;~~

~~g) Notification and storage tank registration;~~

~~c. h) Temporary and permanent closure;~~

~~d. i) Related reporting and recordkeeping;~~

~~c. j) Environmental and regulatory consequences of releases; and~~

~~k) Training requirements for Class B and Class C operators.~~

2. ~~At a minimum, the training program must evaluate Class A operators to determine these individuals have the knowledge and skills to make informed decisions regarding compliance and determine whether appropriate individuals are fulfilling the operation, maintenance, and recordkeeping requirements for UST systems in accordance with paragraph A.1 of this Rule.~~

B. ~~Class B operators. Each designated Class B operator must either receive training in accordance with paragraphs B.1 and B.2 of this Board or pass a comparable examination, in accordance with paragraph E of this Rule. Class B operators must~~

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receive training from an independent trainer.

1. At a minimum, the training program for the Class B operator must cover either: general requirements that encompass all regulatory requirements and typical equipment used at UST facilities; or site-specific requirements which address only the regulatory requirements and equipment specific to the facility. At a minimum, the training program for Class B operators must teach the Class B operator, as applicable, on the purpose, methods, and function of:

f. a) ~~Operation and maintenance;~~

b) ~~Spill and overfill prevention;~~

e) ~~Release detection and related reporting;~~

d) ~~Corrosion protection and related testing;~~

a. e) ~~Emergency response;~~

b. f) ~~Product and equipment compatibility;~~

g) ~~Reporting and recordkeeping;~~

c. h) ~~Environmental and regulatory consequences of releases; and~~

i) ~~Training requirements for Class C operator.~~

2. At a minimum, the training program must evaluate Class B operators to determine these individuals have the knowledge and skills to implement applicable UST regulatory requirements in the field on the components of typical UST systems or, as applicable, site-specific equipment used at an UST facility in accordance with paragraph B.1 of this Rule.

C. Class C operators. Each designated Class C operator must either: be trained by a Class A or Class B operator in accordance with paragraphs C.1 and C.2 of this Rule; complete a training program in accordance with paragraphs C.1 and C.2 of this Rule; or pass a comparable examination, in accordance with paragraph E of this Rule.

1. At a minimum, the training program for the Class C operator must teach the Class C operators to take appropriate actions in response to:

a) ~~Emergencies; and~~

b) ~~Alarms caused by spills or releases from the UST system.~~

2. At a minimum, the training program must evaluate Class C operators to

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determine these individuals have the knowledge and skills to take appropriate action in response to emergencies (including situations posing an immediate danger or threat to the public or to the environment and that require immediate action) or alarms caused by spills or releases from an underground storage tank system.

- D. ~~Training program. Any training program must meet the minimum requirements of this Rule and include an evaluation through testing, a practical demonstration, or another approach acceptable to the Board.~~
- E. ~~Comparable Examination. A comparable examination must, at a minimum, test the knowledge of the Class A, Class B, or Class C operators in accordance with the requirements of paragraphs A, B, or C of this Rule, as applicable.~~

Rule 824 ~~Timing of Operator Training~~

- A. ~~An owner and operator must ensure that designated Class A, Class B, and Class C operators meet requirements in Rule 823 according to the following schedule:~~

Phase-In Schedule For Operator Training	
Criteria	Date By Which First Test Must Be Conducted
One or more USTs at the facility were installed on or before 12/22/1988	{1 year after effective date of rule}
No USTs at the facility were installed on or before 12/22/1988 and at least one UST at the facility was installed on or before 12/22/1998	{2 years after effective date of rule}
All USTs at the facility were installed after 12/22/1998	{3 years after effective date of rule}

- B. ~~Class A and Class B operators designated after the applicable effective date indicated in the schedule above must meet requirements in Rule 823 within 30 days of assuming duties.~~
- C. ~~Class C operators designated after the applicable effective date indicated in the schedule above must be trained before assuming duties of a Class C operator.~~

Rule 825 ~~Retraining~~

~~Class A and Class B operators of UST systems determined by the Board to be out of compliance must complete a training program or comparable examination in accordance with requirements in Rule 823. At a minimum, the training must cover the area(s) determined to be out of compliance. UST system owners and operators must ensure Class A and Class B operators are retrained pursuant to this Rule no later than 30 days from the date the Board determines the facility is out of compliance except in one of the following situations:~~

- A. ~~Class A and Class B operators take annual refresher training. Refresher training for Class A and Class B operators must cover all applicable requirements in Rule 823, or~~
- B. ~~The Board, at its discretion, grants a waiver of this retraining requirement to either the Class A or Class B operator or both.~~

Rule 826 Documentation

~~Owners and operators of underground storage tank systems must maintain a list of designated Class A, Class B, and Class C operators and maintain records verifying that training and retraining, as applicable, have been completed, in accordance with Rule 817 as follows:~~

A. ~~The list must:~~

- ~~1. Identify all current Class A, Class B, and Class C operators at the facility; and~~
- ~~2. Include names, class of operator trained, date assumed duties, date each completed initial training, and any retraining.~~

~~B. Records verifying completion of training or retraining must be a paper or electronic record for Class A, Class B, and Class C operators. The records, at a minimum, must identify name of trainee, date trained, and operator training class completed. Owners and operators must maintain these records for as long as Class A.~~**Rule 821. RESERVED**

Rule 822. RESERVED

~~, Class B, and Class C operators are designated. The following requirements also apply to the following types of training:~~

- ~~1. Records from classroom or field training programs or a comparable examination must, at a minimum, be signed by the trainer or examiner and list the printed name of the trainer or examiner and the company name, address, and phone number;~~
- ~~2. Records from computer-based training must, at a minimum, indicate the name of the training program and web address, if Internet-based; and~~
- ~~3. Records of retraining must include those areas on which the Class A or Class B operator has been retrained.~~

C. ~~The records specified above must be submitted to the Board for Class A and Class B operators.~~

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PART IV—RELEASE DETECTION

Rule 828— General Requirements for All UST Systems

Rule 828. General Requirements for All UST System

A. Owners and operators of UST ~~systems~~ Systems, must provide a method or combination of methods, of release detection that:

1. Can detect a release from any portion of the tank and the connected underground piping that routinely contain product;
2. Are installed and calibrated in accordance with the manufacturer's instructions;

3. ~~Beginning on [one year after At the effective date of rule], is this Regulation, be~~ operated and maintained, and electronic and mechanical components ~~are be~~ tested for proper operation, in accordance with one of the following criteria: manufacturer's instructions; a code of practice developed by a nationally recognized association or independent testing laboratory; ~~or requirements developed by the Board.~~ A test of the proper operation ~~must will~~ be performed, at least ~~annually, submitted one (1) time per year, to the Board with the annual notification, and, at a minimum and as applicable check for proper operation, which evidence must be presented to the facility, cover the following components and criteria:~~ Board as an attachment to the Operating Permit renewal application.

4. ~~a)~~ The test must meet the following criteria:

- a. Automatic tank gauge and other controllers: test alarm; verify system configuration; test battery backup;
- b. ~~b)~~ Probes and sensors: inspect for residual buildup, ensure floats move freely; ensure shaft is not damaged; ensure cables are free of kinks, bends, and breaks; test alarm operability and communication with controller;
- c. ~~c)~~ Line leak detector: test operation to meet criteria in Rule 832. A this Part by simulating a leak; inspect leak sensing ~~eQ~~-ring; and
- d. ~~d)~~ Vacuum pumps and pressure gauges: ensure proper communication with sensors and controller.

~~Note to paragraph A.3: The following code of practice may be used to comply with paragraph A.3 of this Rule:~~

~~A) Petroleum Equipment Institute's PEI RP1200, "Recommended Practices for the Testing and Verification of Spill, Overfill, Leak Detection and Secondary Containment Equipment at UST Facilities".~~

45. Meets the performance requirements Rule 831, Rule 832, Rule 834, or Rule 835 in this Part.

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as applicable, with any performance claims and their manner of determination described in writing by the equipment manufacturer or installer. In addition, the methods listed in ~~Rule 831.E through Rule 831.J, Rule 832.A, Rule 832.B, Rule 834, and Rule 835~~ this Part, must be capable of detecting the leak rate or quantity specified for that method in the corresponding Rule with a probability of detection of 0.95 and a probability of false alarm of 0.05.

B. When a release detection method operated in accordance with the performance standards in ~~Rules 831, Rule 832, Rule 834, or Rule 835~~ this Part indicates a release may have occurred, owners and operators must notify the Board in accordance with Part V.

C. Owners and operators of airport hydrant fuel distribution systems, UST ~~systems~~ Systems with field-constructed tanks, and ~~wastewater treatment tank systems must comply with the release~~ Tank Systems Wastewater Treatment unregulated under section 402 or 307 (b) of CWA and that process regulated substances under this Regulation, shall meet the leak detection requirements of this Part according to in accordance with the following table:

Schedule for Phase in of Release Detection for Airport Hydrant Fuel Distribution Systems, UST Systems with Field-Constructed Tanks, and Wastewater Treatment Tank Systems

<u>Type of UST System</u>	<u>Time Frame (after effective date of rule)this Regulation</u>	<u>Description of Requirement</u>
Bulk piping associated with airport hydrant fuel distribution systems and field-constructed tanks using Rule 835.A <u>Part IV</u> for piping release detection	Within three (3) years.....	Conduct one (1) bulk piping tightness test according to Rule 835.A <u>Part IV</u> , using the maximum detectable leak rates for semiannual testing. For bulk piping segments not capable of meeting the 3.0 gallon per hour leak rate, owners and operators may use a leak rate of up to 6.0 gallons per hour.
	Between six (6) years six and seven (7) years.....	Conduct one (1) bulk piping tightness test according to Rule 835.A <u>Part IV</u> , using the maximum detectable leak rates for semiannual testing.
	After year seven (7)	Conduct bulk piping tightness testing according to Rule 835.A <u>Part IV</u> .
Bulk piping associated with airport hydrant fuel distribution systems and field-constructed tanks not	Within three (3) years.....	Perform release detection according to this subpart <u>Part</u> .

using Rule 835.A Part IV for piping release detection		
Underground tanks associated with hydrant fuel distribution systems and field-constructed tanks	Within three (3) years.....	Perform release detection according to this subpart Part.
Wastewater treatment tank systems Tank Systems Wastewater Treatment unregulated under section 402 or 307 (b) of CWA and process controlled substances under this Regulation.	Within three (3) years.....	Perform release detection according to this subpart Part.

Table 3. Progressive Dates for Release Detection System Compliance.

D. Any UST ~~system~~System that cannot ~~apply a method of release detection that complies with the meet the requirements of this Part~~must, shall, complete ~~the~~permanent closure procedures in Part VII. For previously deferred UST systems described in Part I, this requirement applies after the effective date for Part IV described in VII.

Rule 803.A.1..829. Requirements for Petroleum UST Systems,

Rule 829— Requirements for Petroleum UST Systems

Owners and operators of petroleum UST ~~systems~~Systems, must provide release detection for tanks and piping as follows:

A. Tanks

Tanks must be monitored for releases as follows:

1. Tanks installed on or before ~~effective date of rule~~this Regulation, must be monitored for releases at least every ~~thirty (30) days~~, using one of the allowable methods listed in ~~Rule 834~~Part IV, except that:
 - a.) ~~UST systems~~Systems that meet the performance standards in ~~Rule 807 or Rule 808~~Part II, and the monthly inventory control requirements in ~~Rule 834~~Part IV, may use tank tightness testing (conducted in accordance with ~~Rule 834.F~~Part IV) at least every ~~five (5) years~~ until ~~ten (10) years~~ after the tank was installed or upgraded under ~~Rule 808.B~~Part II, whichever is later;
 - b.) Tanks with capacity of 550 gallons or less and tanks with a capacity of 551 to 1,000 gallons that meet the tank diameter criteria in ~~Rule 834.E~~Part IV, may use manual tank gauging (performed in accordance with ~~Rule 834.E~~Part IV).
 - c.) ~~Field-constructed tanks~~ greater than 50,000 gallons may use the alternative release detection requirements in ~~Rule 834~~Part IV; and

~~d. d)~~ Tanks using ~~Rule 831.B, C or D~~Part IV to monitor for releases, must begin using one of the methods listed in ~~Rule 831.G, H, I or J~~Part IV not later than ~~three years after the~~ effective date of ~~rule~~this Regulation.

2. Tanks installed after ~~the~~ effective date of ~~rule~~this Regulation must be monitored for releases at least every ~~thirty (30)~~ days in accordance with ~~Rule 831.H~~Part IV.

B. Piping

~~Underground piping that routinely contains regulated substances must be monitored for releases in compliance with one of the following requirements:~~

1. Piping installed on or before ~~the~~ effective date of ~~rule~~this Regulation must meet one of the following:

~~a. a)~~ Pressurized Piping. Underground piping that conveys regulated substances under pressure must:

- i. Be equipped with an automatic line leak detector installed in accordance with ~~Rule 832.A~~Part IV; and
- ii. Have an annual line tightness test ~~conducted in accordance with Rule 832.B~~ or have monthly monitoring performed in accordance with ~~Rule 832.C~~Part IV.

~~b. b)~~ Suction Piping: Underground piping that conveys regulated substances under suction must either have a line tightness test conducted at least every three (3) years and in accordance with ~~Rule 832.B~~Part IV, or use a monthly monitoring method conducted in accordance with ~~Rule 832.C~~Part IV. No release detection is required for suction piping that is designed and constructed to meet the following standards:

- i. The below-grade piping operates at less than atmospheric pressure;
- ii. The below-grade piping is sloped so that the contents of the pipe will drain back into the storage tanks if the suction is released;
- iii. Only one check valve is included in each suction line;
- iv. The check valve is located directly below and as close as practical to the suction pump; and
- v. A method is provided that allows compliance with paragraphs B.1.b.ii-iv of this Rule to be readily determined.

~~c. e)~~ Bulk piping. Underground piping associated with airport hydrant fuel distribution systems and field-constructed tanks must meet one of the following release detection requirements:

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- i. The requirements in ~~paragraphs B.1.a or B.1.b of this Rule~~; or
 - ii. The alternative release detection requirements in ~~Rule 835~~this Part.
2. Piping installed or replaced after ~~the effective date of rule~~this Regulation must meet one of the following:
- a. ~~a)~~ Pressurized piping must be monitored for releases at least every thirty (30) days in accordance with Rule 831.H Part IV and be equipped with an automatic line leak detector in accordance with Rule 832.A Part IV.
 - b. ~~b)~~ Suction piping must be monitored for releases at least every thirty (30) days in accordance with Rule 831.H Part IV. No release detection is required for suction piping that meets paragraphs B.1.b.i through B.1.b.v of in this Rule.
 - c. ~~c)~~ Underground bulk piping associated with airport hydrant fuel distribution systems and field-constructed tanks must meet the requirements in paragraph B.1 of this Rule.

Rule 830— Requirements for Hazardous Substance UST Systems

Owners Rule 830. Requirements for Hazardous Substance UST Systems

~~The owners and operators of UST System that store hazardous substance UST systems substances must provide containment that meets the following~~comply with all requirements of UST System that store oil and monitor these systems using Rule 831.H at least every 30 days:

- A. ~~Secondary containment systems must be designed, constructed and installed to:~~
 - 1. ~~Contain regulated substances leaked from the primary containment until they are detected and removed;~~
 - 2. ~~Prevent the release of regulated oil derived substances to the environment at any time during the operational life.~~

Rule 831. Methods of the UST system; and

- 3. ~~Be checked for evidence of a release at least every 30 days.~~

~~Note to paragraph A: The provisions of 40 CFR 265.193, Containment and Release Detection of Releases, may be used to comply with these requirements for tanks installed on or before [effective date of rule] for Tanks~~

- B. ~~Double walled tanks must be designed, constructed, and installed to:~~
 - 1. ~~Contain a release from any portion of the inner tank within the outer wall; and~~

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2. Detect the failure of the inner wall.

C. External liners (including vaults) must be designed, constructed, and installed to:

1. Contain 100 percent of the capacity of the largest tank within its boundary;
2. Prevent the interference of precipitation or groundwater intrusion with the ability to contain or detect the release of regulated substances; and
3. Surround the tank completely (i.e., it is capable of preventing lateral as well as vertical migration of regulated substances).

D. Underground piping must be equipped with secondary containment that satisfies the requirements of this Rule (e.g., trench liners, double-walled pipe). In addition, underground piping that conveys regulated substances under pressure must be equipped with an automatic line leak detector in accordance with Rule 832.A.

E. For hazardous substance UST systems installed on or before [effective date of rule], other methods of release detection may be used if owners and operators:

1. Demonstrate to the Board that an alternate method can detect a release of the stored substance as effectively as any of the methods allowed in Rule 831.B-I;
2. Provide information to the Board on effective corrective action technologies, health risks, and chemical and physical properties of the stored substance, and the characteristics of the UST site; and
3. Obtain approval from the Board to use the alternate release detection method before the installation and operation of the new UST system.

Rule 831— Methods of Release Detection for Tanks

Each release detection method for tanks used to meet the requirements of Rule 829Part IV, except field-constructed tanks installed on or before the effective date of this Regulation with capacities greater than 50,000 gallons that meet Rule 834Part IV, must be conducted in accordance with the following:

A. Methods 834to discontinue: The methods mentioned in the Rule 831, B – D, must be discontinued within three (3) years of the effective date of this Regulation and an alternate method from 831 E – J implemented.

B. Inventory Control

Product inventory control (or another test of equivalent performance) must be performed monthly to detect a release of at least 1.0 percent of flow-through plus one hundred thirty (130) gallons on a monthly basis in the following manner:

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1. Inventory volume measurements for regulated substance inputs, withdrawals, and the amount still remaining in the tank must be recorded each operating day;
2. The equipment used is capable of measuring the level of product over the full range of the tank's height to the nearest one-eighth (1/8) of an inch;
3. The regulated substance inputs are reconciled with delivery receipts by measurement of the tank inventory volume before and after delivery;
4. Deliveries are made through a drop tube that extends to within one foot of the tank bottom;
5. Product dispensing is metered and recorded within the local standards for meter calibration or an accuracy of six (6) cubic inches for every five (5) gallons of product withdrawn; and
6. The measurement of any water level in the bottom of the tank is made to the nearest one-eighth (1/8) of an inch at least once a month.

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~~Note to paragraph A: Practices described in the American Petroleum Institute Recommended Practice RP 1621, "Bulk Liquid Stock Control at Retail Outlets", may be used, where applicable, as guidance in meeting the requirements of this paragraph.~~

C. Vapor Monitoring

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Testing or monitoring for vapors within the soil excavation must meet the following requirements:

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1. The materials used as backfill must be sufficiently porous (e.g., gravel, sand, crushed rock) to readily allow diffusion of vapors from releases into the excavation zone;
2. The stored regulated substance, or a tracer compound placed in the UST ~~system~~System, must be sufficiently volatile (e. g., gasoline) to result in vapor level that is detectable by the monitoring devices located in the excavation zone in the event of a release from the tank;
3. The measurement of vapors by the monitoring device is not rendered inoperative by the groundwater, rainfall, or soil moisture or other known interference, so that a release could go undetected for more ~~than 30~~than thirty (30) days;
4. The level of background contamination in the excavation zone will not interfere with the method used to detected releases from the tank;
5. The vapor monitors are designed and operated to detect any significant increase in concentration above background of the regulated substances stored in the UST ~~system~~System, a component or components of that substance, or any tracer compound placed in the tank system;

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6. The UST excavation zone must be assessed to ensure compliance with the requirements in paragraphs E.1 through E.4 of this Rule; and
7. Monitoring wells are properly and clearly identified and secured to prevent unauthorized access and tampering.

D. Groundwater Monitoring

Testing or monitoring for liquids in the groundwater must meet the following requirements:

1. The regulated substance stored is immiscible in water and has a specific gravity of less than one (1);
2. Groundwater is never more than ~~twenty (20)~~ feet from the ground surface and the hydraulic conductivity of the soil(s) between the UST ~~system~~System and the monitoring wells or devices is not less than 0.01 cm/sec (e.g., the soil should consist of gravel, coarse to medium sands, coarse silts or other permeable materials);
3. The slotted portions of the monitoring well casing must be designed to prevent the migration of natural soils or filter pack into the well and to allow entry of regulated substances on the water table into the well under both high and low groundwater conditions.
4. Monitoring wells shall be sealed from the ground surface to the top of the filter pack;
5. Monitoring wells or devices should intercept the excavation area or be as close to it as is technically feasible;
6. The continuous monitoring devices or manual methods used should detect the presence of at least one-eighth (1/8) of an inch of free product on top of the groundwater in the monitoring wells;
7. Within and immediately below the UST ~~system~~System excavation zone, the site is assessed to ensure compliance with the requirements of paragraphs D.1 through D.5 of ~~in~~ this Rule and to establish the number and positioning of monitoring wells or devices that will detect releases from any portion of the tank that routinely stores product; and
8. Monitoring wells are to be properly and clearly marked and secured to avoid unauthorized access and tampering.

E. Manual Tank Gauging

Manual tank gauging must meet the following requirements:

1. Tank liquid level measurements are taken at the beginning and ending of a period of at least ~~thirty six (36)~~ hours during which no liquid is added to or removed from the tank;

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2. Level measurements are based on an average of two (2) consecutive stick readings at both the beginning and ending of the period;
3. The equipment used is capable of measuring the level of product over the full range of the tank's height to the nearest one-eighth (1/8) of an inch;
4. A release is suspected and subject to the requirements of Part V if the variation between beginning and ending measurements exceeds the weekly or monthly standards shown in the following table:

Nominal Tank Capacity	Minimum Duration Of Test	Weekly Standard (One Test)	Monthly Standard (Four Test Average)
550 gallons or less	36 hours	10 gallons	5 gallons
551-1,000 gallons (when tank diameter is 64")	44 hours	9 gallons	4 gallons
551-1,000 gallons (when tank diameter is 48")	58 hours	12 gallons	6 gallons

Table 4. Weekly or Monthly Standards and Difference between Initial and Final Readings According to the Nominal Capacity of the Tank.

5. Tanks of 550 gallons or less nominal capacity and tanks with a nominal capacity of 551 to 1,000 gallons that meet the tank diameter criteria in the table in paragraph E.4 of this Rule may use this as the sole method of release detection. Tanks of nominal capacity greater than 550 gallons, that not meet the tank diameter criteria in the table in this Rule, may not use this method to meet the requirements of this Part.

F. Tank Tightness Testing

1. Tank tightness testing (or another test of equivalent performance) must be capable of detecting a leak rate of 0.1 gallon per hour from any portion of the tank that routinely contains product while accounting for the effects of thermal expansion or contraction of product, vapor pockets, tank deformation, evaporation or condensation, and the location of the water table.

G. Automatic Tank Gauging

1. Equipment for automatic tank gauging to test for the loss of product and conduct inventory control must meet the following requirements:

1. The automatic product level monitor test can detect a 0.2 gallon per hour leak rate from any portion of the tank that routinely contains product; and
2. The test must be performed with the system operating in one (1) of the following modes:

a. In tank static testing conducted on a periodic basis; or

- b. b) Continuous in-tank leak detection operating on an uninterrupted basis or operating within a process that allows the system to gather incremental measurements to determine the leak status of the tank at least once every thirty (30) days.

H. Interstitial Monitoring

Interstitial monitoring between the UST systemSystem and a secondary barrier immediately around or beneath it may be used, but only if the system is designed, constructed and installed to detect a leak from any portion of the tank that routinely contains the regulated substance and meets one (1) of the following requirements:

1. For double-walled UST systemsSystem, the sampling or testing method can detect releases through the inner wall in any portion of the tank that routinely contains the regulated substance;
2. For UST systemsSystem with a secondary barrier within the excavation zone, the sampling or testing method used can detect a release between the UST systemSystem and the secondary barrier;

- a. a) The secondary barrier around or beneath the UST systemSystem consists of artificially constructed material that is sufficiently thick and impermeable (~~at least 10^{-6} cm/sec for the regulated substance stored~~) to direct a release to the monitoring point and allow its detection;

- b. b) The barrier is compatible with the regulated substance stored so that a release from the UST systemSystem will not cause a deterioration of the barrier allowing a release to pass through undetected;

- c. e) For cathodically protected tanks, the secondary barrier must be installed so that it does not interfere with the proper operation of the cathodic protection system;

- d. d) The groundwater, soil moisture, or rainfall will not render the testing or sampling method used inoperative so that a release could go undetected for more than thirty (30) days;

- e. d) The site is assessed to ensure that the secondary barrier is always above the groundwater and not in a 25-year flood plain, unless the barrier and monitoring system are designed for use under such conditions;

- f. e) Monitoring wells are properly and clearly marked and secured to avoid unauthorized access and tampering.

3. For tanks with an internally fitted liner, an automated device can detect a release between the inner wall of the tank and the liner, and the liner is compatible with the substance stored.
4. For UST systemsSystem using continuous vacuum, pressure, or liquid-filled methods of

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interstitial monitoring, the method must be capable of detecting a breach in both the inner and outer walls of the tank and ~~of~~ piping.

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I. Statistical Inventory Reconciliation

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~~Statistically based testing or monitoring methods must meet the following requirements:~~

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1. Report a quantitative result with a calculated leak rate;
2. Be capable of detecting a leak rate of 0.2 gallon per hour; and
3. Use a threshold that does not exceed one-half the minimum detectible leak rate.

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J. Other Methods

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~~Any other type of release detection method, or combination of methods, can be used if:~~

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1. It can detect a leak rate of 0.2 gallon per hour or a release of ~~one hundred fifty (150)~~ gallons within a month with a probability of detection of 0.95 and a probability of false alarm of 0.05; or
2. The Board may approve another method if the owner and ~~of~~ operator can demonstrate to the Board's satisfaction that the method can detect a release as effectively as any of the methods allowed in this Rule. In comparing methods, the Board shall consider the volume of the release that the method can detect and the frequency and reliability with which it can be detected. If the method is approved, the owner and ~~of~~ operator must comply with any conditions imposed by the Board on its use to ensure the protection of human health and the environment.

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Rule 832-- Methods of Release Detection for Piping

Rule 832. Methods of Release Detection for Piping

~~Each method of release detection for piping used to meet the requirements of Rule 829 in this Part, except bulk piping that meets Rule 835 Part IV, must be conducted in accordance with the following:~~

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A. Automatic Line Leak Detectors

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~~Methods which alert the operator to the presence of a leak by restricting or shutting off the flow of regulated substances through piping or triggering audible or visual alarms may be used only if they detect leaks of three (3) gallons per hour at ~~ten (10)~~ pounds per square inch line pressure within one (1) hour. An annual test of the operation of the leak detector must be conducted in accordance with Rule 828.A.3 this Part.~~

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B. Line Tightness Testing

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~~A periodic test of piping may be conducted only if it can detect a 0.1 gallon per hour leak rate at one and one-half (1 ½) times the operating pressure.~~

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C. Applicable Tank Methods

~~Except as described in Rule 829.A, any of the. The~~ methods in Rule 831.E-J may be used if they are designed to detect a release from any portion of the underground pipelines that routinely contains regulated substances. ~~Except as described in Rule 829 A,~~

Rule 833-- Release Detection Recordkeeping

Rule 833. Release Detection Recordkeeping

All UST ~~system~~System owners and operators must maintain records in accordance with ~~Rule 847Part III~~ to demonstrate compliance with all applicable requirements of this Part. These records must include the following:

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~~A.~~ All written performance claims pertaining to any release detection system used, and the manner in which these claims have been justified or tested by the equipment manufacturer or installer. ~~This documents~~ must be maintained for at least ~~five (5)~~three (3) years after the date of installation;

~~B.~~ The results of any sampling, testing or monitoring must be maintained for at least ~~one (1)~~yearthree (3) years, or for another reasonable period of time determined by the Board, except as follows:

1. The results of annual operation tests conducted in accordance with ~~Rule 828.A.3Part IV~~ must be maintained for three (3) years. At a minimum, the results must list each component tested, indicate whether each component tested meets criteria in ~~Rule 828.A.3Part IV~~ or needs to have action taken, and describe any action taken to correct an issue; and

2. The results of tank tightness testing or bulk tank tightness testing conducted in accordance with ~~Rule 831.F or Rule 834Part IV~~ must be submitted to the Board with the ~~annual notification and retained until the next test is conducted; and~~Operation Permit.

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~~C.~~ All written documentation of calibrations, maintenance and repair of releases detection equipment permanently located ~~on-site~~onsite must be maintained for at least one (1) year after the servicing work is completed. Any schedules of required calibration and maintenance provided by the release detection equipment manufacturer must be retained for at least five (5) years from the date of installation.

Rule 834 Alternative Methods of Release Detection for Field Constructed Tanks

Rule 834. Alternative Methods of Release Detection for Field Constructed Tanks

Owners and operators of field-constructed tanks with a capacity greater than 50,000 gallons may use one or a combination of the following alternative methods of release detection:

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A. Conduct an annual bulk tank tightness test that can detect a 0.5 gallon per hour leak rate;

B. Use an automatic tank gauging system to perform release detection at least every thirty (30) days that can detect a leak rate less than or equal to one gallon per hour. This method must be combined with a bulk tank tightness test that can detect a 0.2 gallon per hour leak rate performed at least every three (3) years;

C. Use an automatic tank gauging system to perform release detection at least every thirty (30) days that can detect a leak rate less than or equal to two (2) gallons per hour. This method must be combined with a bulk tank tightness test that can detect a 0.2 gallon per hour leak rate performed at least every two (2) years; or

D. Another method approved by the Board if the owner and operator can demonstrate that the method can detect a release as effectively as any of the methods allowed in paragraphs A through C of this Rule. ~~In comparing methods, the Board shall consider the size of release that the method can detect and the frequency and reliability of detection. If the method is approved, the owner and operator must comply with any conditions imposed by the Board on its use.~~

this Rule. In comparing methods, the Board shall consider the size of release that the method can detect and the frequency and reliability of detection. If the method is approved, the owner and operator must comply with any conditions imposed by the Board on its use.

Rule 835 Alternative Methods of Release Detection for Bulk Piping

Rule 835. Alternative Methods of Release Detection for Bulk Piping

Owners and operators of underground piping associated with airport hydrant fuel distribution systems and field-constructed tanks may use one or a combination of the following alternative methods of release detection:

A. Perform a semiannual or annual bulk line tightness test at or above operating pressure in accordance with the table below. Bulk piping segments $\geq 100,000$ gallons not capable of meeting the maximum three (3.0) gallon per hour leak rate for the semiannual test may be tested at a leak rate up to six (6.0) gallons per hour according to the schedule in Rule 828Part IV:

Maximum Detectable Leak Rate Per Test Section Volume		
Test Section Volume (Gallons)	Semiannual Test Maximum Detectable Leak Rate (Gallons Per Hour)	Annual Test Maximum Detectable Leak Rate (Gallons Per Hour)
$< 50,000$	1.0	0.5
$\geq 50,000$ to $< 75,000$	1.5	0.75
$\geq 75,000$ to $< 100,000$	2.0	1.0
$\geq 100,000$	3.0	1.5

Table 5. Maximum Detectable Leak Rate per Volume of the Section evaluated.

B. Perform continuous interstitial monitoring designed to detect a release from any portion of the

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underground piping that routinely contains product in accordance with ~~Rule 831.H~~Part IV:

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~~C.~~ Use an automatic line leak detector that alerts the operator to the presence of a leak by restricting or shutting off flow of regulated substances through piping or triggering an audible or visual alarm. This method may be used only if it can detect a leak of three (3) gallons per hour at ~~ten~~ (10) pounds per square inch line pressure within one (1) hour or equivalent. When using this method, the following must also be met:

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1. Perform interstitial monitoring, designed to detect a release from any portion of the underground piping that routinely contains product, in accordance with ~~Rule 831.H~~Part IV, at least every three (3) months; and

2. Conduct an annual test of the operation of the leak detector in accordance with ~~Rule 828.A.3~~Part IV; or

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~~D.~~ Another method approved by the Board if the owner and operator can demonstrate that the method can detect a release as effectively as any of the methods allowed in this Rule. In comparing methods, the Board shall consider the size of release that the method can detect and the frequency and reliability of detection. If the method is approved, the owner and operator must comply with any conditions imposed by the Board on its use.

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~~paragraphs A through C of this Rule. In comparing methods, the Board shall consider the size of release that the method can detect and the frequency and reliability of detection. If the method is approved, the owner and operator must comply with any conditions imposed by the Board on its use.~~

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~~Rule 836~~ — RESERVED

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PART V—RELEASE REPORTING, INVESTIGATION AND CONFIRMATION

Rule 837— Reporting of Suspected Releases

Rule 837. Reporting of Suspected Releases

Owners and operators of UST ~~systems~~Systems, must report to the Board within ~~twenty four (24)~~ hours and follow procedures in ~~Rule 839~~Part V, for any of the following conditions:

A. The discovery by owners and operators or anyone else of released regulated substances at the UST site or in the surrounding area (such as the presence of free product or vapors in soils, basements, sewer and utility lines, and nearby surface waters or monitoring wells).

B. Unusual operating conditions observed by owners and ~~or~~ operators (such as erratic operation of product dispensing equipment, sudden loss of product from the UST ~~system~~System, an unexplained presence of water in the tank, or water or product in the interstitial space of secondarily contained systems), unless system equipment is found to be defective but not leaking, and is immediately repaired or replaced, in which case the Board should be notified of the situation within no more than five (5) days from the date when the condition was detected.

C. Monitoring results, including alarms, from a release detection method required under ~~Rule 829~~ and ~~Rule 830~~Part IV, which indicate a release may have occurred unless:

1. 1. The monitoring device is found to be defective, and is immediately repaired, recalibrated or replaced, and additional monitoring does not confirm the initial result; or

2. 2. In the case of inventory control, a second month of data does not confirm the initial result.

D. D. In both cases C.1 and C.2, ~~that the Board~~release be confirmed, should be notified ~~to the Board~~ of the situation within five (5) days from the date when the condition was found.

Rule 838— Investigation Due to Off-Site Impacts

Rule 838. Investigation Due to Off Site Impacts

When required by the Board, owners and operators of UST ~~systems~~System must follow the procedures in ~~Rule 839~~Part V, to determine if the UST ~~system~~System is the source of off-site impacts. These impacts include the discovery of regulated substances (such as the presence of free product or vapors in soils, basements, sewer and utility lines, nearby surface and drinking waters, and monitoring wells) that has been observed by the Board or brought to its attention by another party.

Rule 839— Release Investigation and Confirmation Steps

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Rule 839. Release Investigation and Confirmation Steps

Unless ~~corrective actions~~ **Corrective Actions** is initiated in accordance with Part VI of this Regulation, owners and operators must immediately investigate and ~~confirm if is confirmed~~ all suspected releases of regulated substances ~~requiring reporting under Rule 837, within seven (7) days, must report it according with Part V, immediately by writing to WQA to the Board, using~~ either the following steps or another procedure approved by the Board.

A. System Test

Owners and operators must conduct tests, according to the requirements for tightness testing in ~~Rule 831.F and Rule 832.B~~ **Part IV**, or for UST ~~systems~~ **System** with secondary containment and interstitial monitoring, the integrity testing specified in ~~Rule 849~~ **Part III** that determine whether a leak exists in that portion of the tank that routinely contains the regulated substance, the attached delivery piping, or a breach of the interstitial space.

1. If the system test confirms a leak, owners and operators must repair, replace, upgrade, or close the UST ~~system~~ **System**. In addition, owners and operations must begin ~~corrective action~~ **Corrective Action** in accordance with Part VI of this Regulation if the test results for the system, tank, or delivery piping indicate that a release exists.
2. Further investigation is not required if the test results for the systems, tank, and delivery piping do not indicate that a release exists and if environmental contamination is not the basis for suspecting a release.
3. Owners and operators must conduct a site check as described in ~~paragraph B of~~ this Rule if the test results for the system, tank, and delivery piping do not indicate that a release exists but environmental contamination is the basis for suspecting a release.

B. Site Check

Owners and operators must sample, in accordance with ~~Rule 844.A~~ **Part II** of this Regulation, for the presence of a release where contamination is most likely to be present at the UST site, in accordance with ~~sub section A.3 of~~ this Rule. In selecting sample types, sample locations, and measurement methods, owners and operators must consider the nature of the stored substance, the type of initial alarm or cause for suspicion, the type of backfill, the depth to groundwater, and other factors appropriate for identifying the presence and source of the release.

1. If the test results for the excavation zone or the UST site indicate that a release has occurred, owners and operators must begin corrective action in accordance with Part VI;
2. If the test results for the excavation zone or the UST site do not indicate that a release has occurred, further investigation is not required.

Rule 840 – Reporting and Cleanup of Spills and Overfills

Rule 840. Reporting and Cleanup of Spills and Overfills

A. Owners and operators of UST ~~systems~~System must contain and immediately clean up a spill or overfill and report to the Board within ~~twenty four (24)~~ hours, and begin corrective action in accordance with Part VI of this Regulation in the following cases:

1. Spill or overfill of petroleum and its derivatives that result in a release to the environment that exceeds ~~twenty five (25)~~ gallons, or that causes a violation to the general standards for oil and grease established by the ~~Puerto Rico Water Quality Standards Regulation~~RWQS, as amended, on nearby surface water; and
2. Spill or overfill of a hazardous substance that result in a release to the environment that equals or exceeds its reportable quantity under CERCLA ~~(40 CFR 302)~~.

B. Owners and operators of UST ~~systems~~System must contain and immediately clean up a spill or overfill of petroleum that is less than ~~twenty five (25)~~ gallons, and a spill or overfill of a hazardous substance that is less than the reportable quantity. If cleanup cannot be accomplished within ~~twenty four (24)~~ hours, owners and operators must immediately notify the Board.

Note: Pursuant to 40 CFR 302.6 and 355.40, a release of a hazardous substance equal to or in excess of its reportable quantity must also be reported immediately (rather than within 24 hours) to the National Response Center under sections 102 and 103 of the ~~Comprehensive Environmental Response, Compensation, and Liability Act of 1980~~CERCLA, and to the Board and any other local authorities under Title III of the ~~Superfund Amendments and Reauthorization Act of 1986~~SARA.

Rule 841 — ~~RESERVED~~

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PART VI—RELEASE RESPONSE AND CORRECTIVE ACTION FOR UST SYSTEMS CONTAINING PETROLEUM OR HAZARDOUS SUBSTANCES

Rule 842— General

Rule 842. General

The owners and operators of UST System that store petroleum or hazardous substance UST systems must substances shall, in response to a leak confirmed release from the a UST system, comply with System, meet the requirements of this Part except for UST excluded under.

Rule 803.B and UST systems subject to RCRA Subtitle C corrective action requirements under section 3004(u) of the Resource Conservation and Recovery Act, as amended. **843. Initial Response**

Rule 843— Initial Response

Upon confirmation of a release in accordance with Rule 839 Part V or after a release from the UST system System is identified in any other manner, owners and operators must perform the following initial response actions within twenty four (24) hours of a release.

A. Report the release to the Board (e.g. by telephone or fax).

B. Take immediate action to prevent any further release of the regulated substance into the environment; and

C. Identify and mitigate fire, explosion, and vapor hazards.

Rule 844— Initial Abatement Measures, Site Check, and Free Product Removal
Rule 844. Initial Abatement Measures, Site Check, and Free Product Removal

A. Unless directed to do otherwise by the Board, owners and operators must perform the following abatement measures:

1. Remove as much of the regulated substance from the UST system System as is necessary to prevent further release to the environment;
2. Visually inspect any aboveground releases or exposed underground releases and prevent further migration of the released substance into surrounding soils and groundwater;
3. Continue to monitor and mitigate any additional fire and safety hazards posed by vapors or free product that have migrated from the UST excavation zone and entered into subsurface structures (such as sewers or basements);
4. Remedy hazards posed by contaminated soils that are excavated or exposed as a result of release confirmation, site investigation, abatement, or corrective action Corrective Action. If these remedies include treatment or disposal of soils, the owner and operator must comply with all applicable Board and other local and federal agencies' requirements;

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and

5. Investigate to determine the possible presence of free product, and start free product removal as soon as possible in accordance with this Rule 844.B.

B. Within twenty (20) days after release confirmation, ~~or in accordance with a reasonable schedule established by the Board,~~ owners and operators must submit to the Board a report summarizing the initial abatement steps taken ~~under paragraph A,~~ and any other information or data resulting from this activity. ~~At sites where investigations under Rule 844.A.5 this Part indicate the presence of free product, owners and operators must remove free product to the maximum extent practicable and as determined by the Board while continuing, as necessary, any actions initiated under Rules 843 through Rule 844, or preparing for actions required under Rules 845 through Rule 846.~~ To comply with the requirements of this Rule, owners and operators must:

1. Conduct free product removal in a manner that minimizes the spread of contamination into uncontaminated zones, by using recovery and disposal techniques appropriate to the ~~hydrogeologic~~ hydrogeological conditions at the site, and that properly treats, discharges, or disposes of recovery ~~by products~~ byproducts in compliance with applicable Puerto Rico and federal regulations. If these activities include groundwater monitoring and ~~or,~~ extraction wells, the owners or operators must comply with the procedures established by Law No. 136 ~~as amended,~~ Water Law of Puerto Rico) ~~as amended.~~
2. Use abatement of free product migration as a secondary objective in designing the free product removal system; and
3. Handle any flammable product in a safe and competent manner to prevent fires or explosions.

C. Within forty five (45) days after release confirmation, or in accordance with a reasonable schedule established by the Board, owners and operators must submit to the Board a report summarizing the initial abatement steps taken under this Rule 844.A. free product removal action, and any other information or data resulting from this activity. The report must include the following information regarding the free product removal action:

1. The name of the ~~person(s)~~ person's responsible for implementing the free product removal measures;
2. Estimated quantity, type, and thickness of free product observed or measured in wells, boreholes, and excavations;
3. Type of free product recovery system used;
4. Whether any discharge will take place on site or off site during the recovery operation and where this discharge will be located;

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5. Type of treatment applied to, and the effluent quality expected from, any discharge;
6. Steps that have been or are being taken to obtain necessary permits for drilling and installation of groundwater monitoring and/or extraction wells, and for any discharge; and
7. Disposal of the recovered free product.

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Rule 845. Site Investigation Plan for Soil and Groundwater Cleanup

Site Investigation Plan for Soil and Groundwater Cleanup
~~Rule 845-~~

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A. In

A. The Board may require owners and operators to submit a Site Investigation Plan in order to determine the full extent and location of soils contaminated by the release and the presence and concentrations of dissolved product contamination in the groundwater, owners, Owners, and operators must submit a ~~site investigation plan~~ Site Investigation Plan for the Board's approval in accordance with ~~Rule 811 (PARPCUST); and the forms to be adopted by the Board.~~ The plan will include a description of work to be done at the site and the surrounding areas possibly affected by the release, if any of the following conditions exists:

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1. There is evidence that groundwater wells have been affected by the release (e.g., as found during releases confirmation or previous corrective action measures);
2. Free product found needs recovery action in compliance with ~~Rule 844.B~~ this Part;
3. There is evidence that contaminated soils may be in contact with groundwater (e.g., if evidence is found while conducting initial response measurements or investigations required under ~~Rule 842 through 844~~ this Part); and
4. The Board requests an investigation, based on the potential effects of contaminated soil or groundwater on nearby surface waters and groundwater resources.
5. The Board requests an investigation, based on the results of ~~Rule 852~~ Part VIII.

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B. Upon approval of the site investigation plan or as directed by the Board, owners and operators must implement the plan, including modifications to the plan made by the Board. They must sample, evaluate, and report the results of implementing the plan in accordance with a schedule and in a format approved by the Board, ~~and the forms to be adopted by the Board.~~

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Rule 846– Corrective Action Plan

Rule 846. Corrective Action Plan

~~A. At any point after reviewing the information submitted in compliance with Rule 843 (Initial Response) through Rule 845 (The Board Site Investigation Plan for Soil and Groundwater Cleanup), the Board may require owners and operators to submit additional information or to develop and submit a corrective action plan~~Corrective Action Plan for responding to contaminated soils and groundwater. If a ~~plan~~Plan is required, owners and operators must submit the plan according to a schedule and format established ~~In Appendix I (in PARPCUST)~~ by the Board. ~~Alternatively, owners and operators may, after fulfilling the requirements of Rule 843 (Initial Response) through 845 (Site Investigation Plan for Soil and Groundwater Cleanup), choose to submit a corrective action plan for responding to contaminated soil and groundwater. In either case, owners and operators are responsible for submitting a plan that provides for adequate protection of human health and the environment as determined by the Board, and must modify their plan as necessary to meet this requirement. This plan is to include a schedule of the work to be performed.~~

~~B. The Board will approve the corrective action plan~~Corrective Action Plan only after ensuring that implementation of the plan will adequately protect human health, safety, and the environment. In making this determination, the Board will consider the following factors as appropriate:

- ~~1. The physical and chemical characteristics of the regulated substance, including its toxicity, persistence, and potential for migration;~~
- ~~2. The hydrogeologic~~hydrogeological characteristics of the facility and the surrounding area;
- ~~3. The proximity, quality, and current and future uses of nearby surface water and groundwater;~~
- ~~4. The potential effects of residual contamination of nearby surface water and groundwater;~~
- ~~5. An exposure assessment; and~~
- ~~6. Any information assembled in compliance with this Part.~~

~~C. Upon approval of the corrective action plan or~~As soon as directed~~Corrective Action Plan is approved by the Board, owners and operators must~~shall implement the ~~plan~~Plan, including ~~modifications to the plan made by the Board. They must monitor any amendments thereto. Must take samples, evaluate, and report the results of implementing the plan~~implementation of the Plan in accordance with a ~~schedule~~the EQB authorization EQB and in a format ~~approved according to the forms adopted by the Board.~~

~~D. Owners and operators may, in the interest of minimizing environmental pollution and promoting more effective cleanup, begin cleanup of soil and groundwater before the corrective action plan is approved provided that they:~~

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1. ~~Notify the Board of their intention to begin cleanup;~~
2. ~~Comply with any conditions imposed by the Board, including halting cleanup or mitigating adverse consequences from cleanup activities; and~~
3. ~~Incorporate these self-initiated cleanup measures in the corrective action plan that is submitted to the Board for the corresponding approval.~~

~~Rule 847— Public Participation~~
Rule 847. Public Participation

~~A.~~ For each confirmed release that requires a ~~corrective action plan~~ Corrective Action Plan, the Board must provide notice to the public by means designed to reach those members of the public directly affected by the release and the planned ~~corrective action~~ Corrective Action. This notice may include, but is not limited to, public notice in local newspapers, public service announcements, letters to individual households, or personal contacts by field staff.

~~B.~~ The Board must ensure that site release information and decisions concerning the ~~corrective action plan~~ Corrective Action Plan are made available to the public for inspection ~~upon request~~.

~~C.~~ ~~Before approving a corrective action plan, the Board may hold a public meeting to consider comments on the proposed corrective action plan if there is sufficient public interest, or for any other reason.~~

~~D.C.~~ The Board must notify the affected community if implementation of an approved ~~corrective action plan~~ Corrective Action Plan does not achieve the established cleanup levels in the ~~plan~~ Plan, and if termination of that ~~plan~~ Plan is under consideration by the Board. This notification may be through public notice in local newspapers, public service announcements, letters to the residents, or personal contacts by field staff.

~~Rule 848— Risk-Based Corrective Action~~

- ~~A.~~ ~~Petitions for risk based corrective action (RBCA) will be considered on a site by site basis.~~
- ~~B.~~ ~~Petitions must follow prescribed EQB RCBA policy and procedures once approved by the EQB Governing Board.~~

Rule 848. Risk Based Corrective Action

A. The Board shall require Corrective Action when the results of the analysis of samples taken during an investigation of a UST System escape indicating the levels exceeding any corrective action levels established in Table 2 of this Regulation, which are, also, cleanup levels to be used in corrective actions.

B. There are several mechanisms by which otherwise Corrective Action for a contaminated site can be implemented. The Board will not accept or evaluate Corrective Action Plans that use

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these various methods, until it be approved for such purposes a public policy of the Governing Board.

Rule 849—RESERVED

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PART VII. OUT-OF-SERVICE UST SYSTEM AND CLOSURE

Rule 850. Temporary Closure of UST Systems

A. When a Rule 850. Temporary Closure of UST systemSystem

A. The owners and operators when a UST System is temporarily closed, it must be empty and ~~owners and operators~~ must continue operation and maintenance of corrosion protection in accordance with ~~Rule 814Part III~~, and any releases detection in accordance with Part IV. In addition, Parts V and Part VI must be complied with if a release is suspected or confirmed. However, release detection is not required as long as the UST ~~systemSystem~~ is empty. The UST ~~systemSystem~~ is empty when all materials have been removed using commonly employed practices so that no more than 2.5 centimeters (one inch) of residue, or 0.3 percent by weight of the total capacity of the UST ~~systemSystem~~, remain in the system.

B. ~~When~~The owners and operators when an UST ~~systemSystem~~ is temporarily closed for three (3) months or more, ~~owners and operators~~ must also comply with the following requirements:

1. Leave vent lines open and functioning; and
2. Cap and secure all other lines, pumps, man-ways, and ancillary equipment.

C. ~~When~~The owners and operators when an UST ~~systemSystem~~ is temporarily closed for more than twelve (12) months, ~~owners and operators~~ must permanently close the UST system if it does not meet either performance standards in ~~Rule 807Part II~~, for new UST ~~systemsSystem~~ or the upgrading requirements in ~~Rule 808Part II~~, except that the spill and overfill equipment requirements do not have to be met. Owners and operators must permanently close the substandard UST ~~systemsSystem~~ at the end of this ~~twelve (12-)~~ month period in accordance with ~~Rule 851-854Part VII~~, unless the Board provides an extension of twelve (12) month temporary closure period. Owners and operators must complete a site assessment in accordance with ~~Rule 852this Part~~ before such an extension can be applied for.

Rule 851. Permanent Closure and Changes in Service

A. ~~Before~~The owners and operators before any permanent closure activities or changes in service, ~~the owners and operators~~ must apply for and obtain a Closure Permit from the Board in accordance with ~~Rule 810.DPart II~~ of this Regulation. In addition, they must comply with the requirements established in ~~paragraphs B and C below this Rule~~. The excavation area evaluation required under ~~this Rule 852~~ must be performed after obtaining the Closure Permit.

B. ToB. The owners and operators to permanently close a tank, ~~owners and operators~~ must empty and clean it by removing all liquids and accumulated sludge. All tanks taken out of service permanently must be removed from the ground.

1. The Board will evaluate any closure in place petition made by the owner on a case by case basis. The petitions must provide a justification for the closure in place. ~~When making this~~

and submit all relevant information as an attachment to the Closure Permit Application. To make the determination, the Board will consider the following factors:

a) The UST ~~system~~System is under or beneath structures.

a. b) The and the removal of the UST ~~system~~System can compromise the stability of a structure.

b. e) The removal of the UST ~~system~~System can compromise human health or the environment.

C. Continued use at the same site of an UST system to store a non-regulated substance is considered a change-in-service. Before a change-in-service, owners and operatorsThe owners and operators before a change-in-service, must empty and clean the tank by removing all liquid and accumulated sludge and conduct a site investigation and corrective action in accordance with Rule 845 and 846,Part VI. If the UST ~~system~~System is removed, it must be disposed in accordance with Appendix I (PARPCUST).

Note: The following cleaning and closure procedures may be used to comply with this Rule:

A) American Petroleum Institute Recommended Practice RP 1604, “ 852. Assessing the Site at Closure of Underground Petroleum Storage Tanks”;

B) American Petroleum Institute Standard 2015, “Requirements for Safe Entry and Cleaning of Petroleum Storage Tanks”;

C) American Petroleum Institute Recommended Practice 2016, “Guidelines and Procedures for Entering and Cleaning Petroleum Storage Tanks”;

D) American Petroleum Institute Recommended Practice RP 1631, “Interior Lining and Periodic Inspection of Underground Storage Tanks”;

E) National Fire Protection Association Standard 326, “Safeguarding of Tanks and Containers for Entry, Cleaning, or Repair”; and

F) The National Institute for Occupational Safety and Health Publication 80-106 “Criteria for a Recommended Standard... WorkingChange in Confined Space” may be used as guidance for conducting safe closure procedures of hazardous substance storage tanks.Service

Rule 852-- Assessing the Site at Closure or Change-in-Service

A. Before

A. The owners and operators before permanent closure or a change-in-service is completed, owners and operators must perform the corresponding sampling procedure in accordance with Appendix I (PARPCUST). In selecting sample types, samples locations, and sampling methods, owners and operators must consider the method of closure, the nature of the stored

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substance, the type of backfill, the depth to groundwater, and other factors appropriate for identifying the presence of a release. The requirements of this Rule are satisfied if one (1) of the external release detection methods allowed ~~in Rule 831.C and D~~, it is operating in accordance with the requirements in ~~Rule 831~~Part IV, at the time of closure, and indicates no release has occurred.

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B. If contaminated soils, contaminated groundwater, or free product as a liquid or vapor is discovered in accordance with paragraph A of this Rule, ~~or by any other manner~~, owners and operators must begin corrective action in accordance with Part VI of this Regulation.

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Rule 853— Applicability to Previously Closed UST Systems

~~When directed by the Board, the owner and operator~~**Rule 853. Applicability to Previously Closed UST Systems**

~~The owners and operators of a UST system~~System that was permanently closed ~~without obtaining the permission of the Board before December 22, 1998, must~~the effective date of this Regulation, shall assess the ~~excavation zone and close~~area where the UST ~~system~~System stood requesting Closure Permit in accordance with this Part if any release that occurred from the UST may, in the judgment of the Board, pose a current or potential threat to human health and the environmentVII of this Regulation.

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Rule 854— Closure Records

Rule 854. Closure Records

A. Owners and operators must maintain closure records, in accordance with ~~Rule 817~~Part III, that are capable of demonstrating compliance with closure requirements under this Part. The results ~~of the sampling procedure required in Rule 852~~also must be maintained for at least three (3) years after completion of permanent closure or change ~~in~~ service in one (1) of the following alternatives:

1. By the owners and operators who responsible for closure of the UST ~~system~~System.
2. By the current owners and operators of the UST ~~system~~System site.
3. By mailing these records in PDF format to the Board if they cannot be maintained at the facility.

B. B. ~~The results of all activities conducted during the closure report~~must be submitted through the Closing Final Report, which must be submitted to the Board in accordance with ~~Appendix I~~(the provisions ~~PARPCUST~~), and the forms to be adopted by the Board.

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RULE 855— RESERVED

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Rule 856. Register of UST System

~~It is the responsibility of the owner and operator of the UST ownerSystem to notify/register these systems before the Board of all tanks. Where, When the Board is unable to determine who the owner of a UST owner cannot be determined or is disputedSystem is or this matter is in legal dispute, it shallwill be the responsibility of the property or facility owner to notifyof the Board of all tanksland where UST System is located on the property or to register at the facilityBoard all UST Systems located in the installation.~~

Rule 859— Certificate of Registration and UST Facility Identification Number

Rule 859. Certificate of Registration and UST Facility Identification Number

~~The Board will issue a Certificate of Registration assigning an identification number to each registered facility and/or owner. The registration number must be used in all permit applications, permit modifications, and in all written or verbal communications concerning the facility. The owner or operator must post the Certificate of Registration issued by the Board in a visible place at the facility.~~

Rule 860— Changes to Facility Data

A.—Rule 860. Changes to Facility Data

~~A. The owner orand operator of a UST shall notifySystem must inform to the Board throughout through a Permit Modification form to be adopted by the Board, of any change inof owner or operator at the ownership of a facility within thirty (30) days after the contract date is signed. of the signing of the sale or lease contract. The new owner willshall, within the same time, be responsible (within the same concurrent period) for notifying the Board of the actual status of the facilityto request to the Board a Permit Operation Modification, using the modification form in Appendix Ito be adopted by the Board.~~

~~B. The Board will issue to the new owner or operator a new Certificate of Registration indicating all changes.~~

~~C. Modifications to the information previously provided relating to the use and operation of the UST systemSystem must be notified to the Board throughout a Permit Modification form by the owner or operator within thirty (30) days before implementing such changes in the facility using the form provided in Appendix Ito be adopted by the Board.~~

Rule 861— RESERVED

Rule 862. RESERVED

PART IX— FINANCIAL RESPONSIBILITY

Rule 862 Applicability

Rule 863. Applicability

A. This Part applies to owners and operators of all petroleum or petroleum derived products ~~underground storage tanks (UST) systems~~ System installed in Puerto Rico, except as otherwise provided in this Rule.

B. Owners and operators of UST ~~systems~~ System that store petroleum or petroleum derived products are subject to these requirements in accordance with Rule 863.

C. State and federal government entities whose debts and liabilities are the debts and liabilities of the Commonwealth of Puerto Rico or the United States of America are exempt from the requirements of this Part.

D. The requirements of this Part do not apply to owners and operators of any UST ~~systems~~ System described in Rule 803.B, ~~C.2, or C.3.~~

E. ~~If the owner and operator of a petroleum underground storage tank are separate persons, only one person is~~ The information required to demonstrate financial responsibility; however, both parties are liable in the event of noncompliance..

Rule 863 Compliance Dates

~~Owners of petroleum underground storage tanks must~~ this Part shall be submitted using forms approved by the EPA that comply with the requirements of this Part. Previously deferred laws and regulations of the Commonwealth of Puerto Rico or those adopted by the Board.

Rule 864. Compliance Dates

~~The owners and operators of UST systems must comply with~~ System that store regulated substances shall meet the requirements of this Part according to part at the schedule in Rule 803.

Rule 864 Definition time of the effective date of **Terms**

~~When used in this Part, the following terms shall have the meaning given below:~~ Regulation,

A. ~~Accidental Release means any sudden or nonsudden release of petroleum arising from operating an underground storage tank that results in a need for corrective action and/or compensation for bodily injury or property damage neither expected nor intended by the tank owner or operator.~~

B. ~~Bodily Injury shall have the meaning given to this term by applicable law in Puerto~~

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~~Rico; however, this term shall not include those liabilities or risks which, consistent with standard insurance industry practices, are excluded from coverage in liability insurance policies for bodily injury.~~

~~C. Controlling Interest means direct ownership of at least 50 percent of the voting stock of another entity that owns or operates a facility; the owner or operator entity shall be considered as subsidiary of the Controlling Interest.~~

~~D. Executive Director of the Board means the highest ranking official of the Environmental Quality Board responsible for carrying out the EPA approved UST Program.~~

~~E. Financial Reporting Year means the latest consecutive 12 months period for which any of the following reports used to support a financial test is prepared:~~

- ~~1. A 10-K report submitted to the SEC;~~
- ~~2. An annual report of tangible net worth submitted to Dun and Bradstreet; or~~
- ~~3. Annual reports submitted to the Energy Information Administration or the Rural Utilities Service.~~

~~Financial reporting year may comprise a fiscal or a calendar year period.~~

~~F. Legal Defense Cost is any expense that an owner or operator or provider of financial assurance incurs in defending against claims or actions brought~~

- ~~1. By EPA or by the Board to require corrective action or to recover the costs of corrective action;~~
- ~~2. By or on behalf of a third party for bodily injury or property damage caused by an accidental release; or~~
- ~~3. By any person to enforce the terms of a financial assurance mechanism.~~

~~G. Local Government is a term that is generally intended to include: (1) counties, municipalities, townships, separately chartered and operated special districts (including local government public transit systems and redevelopment authorities); and independent school districts authorized as governmental bodies by state charter or constitution; and (2) special districts and independent school districts established by counties, municipalities, townships, and other general purpose governments to provide essential services.~~

~~H. Occurrence means an accident, including continuous or repeated exposure to conditions, which results in a release of a regulated substance from an underground storage tank.~~

Note: This definition is intended to assist in the understanding of these regulations and is not intended either to limit the meaning of this term in a way that conflicts with standard insurance usage or to prevent the use of other standard insurance terms in place of occurrence.

- I. ~~Owner or Operator, when the owner or operator are separate parties, refers to the party that is obtaining or has obtained financial assurance.~~
- J. ~~Petroleum Marketing Facilities include all facilities at which petroleum is produced or refined and all facilities from which petroleum is sold or transferred to other petroleum marketers or to the public.~~
- K. ~~Petroleum Marketing Firms are all firms owning petroleum marketing facilities. Firms owning other types of facilities with USTs as well as petroleum marketing facilities are considered to be petroleum marketing firms.~~
- L. ~~Property Damage shall have the meaning given to this term by applicable law in Puerto Rico. This term shall not include those liabilities which, consistent with standard insurance industry practices, are excluded from coverage in liability insurance policies for property damage. However, such exclusions for property damage shall not include corrective action associated with releases from tanks, which are covered by the policy.~~
- M. ~~Provider of Financial Assurance means an entity that provides financial assurance to an owner or operator of an underground storage tank through one of the mechanisms listed in Rule 867-873, including a guarantor, insurer, risk retention group, surety, issuer of a letter of credit or issuer of a mechanism required by Puerto Rico.~~
- N. ~~Substantial Business Relationship means the extent of a business relationship necessary under applicable Puerto Rico law to make a guarantee contract issued incident to that relationship valid and enforceable. A guarantee contract is issued "incident to that relationship" if it arises from and depends on existing economic transactions between the guarantor and the owner or operator.~~
- O. ~~Substantial governmental relationship means the extent of a governmental relationship necessary under applicable state law to make an added guarantee contract issued incident to that relationship valid and enforceable. A guarantee contract is issued "incident to that relationship" if it arises from a clear commonality of interest in the event of an UST release such as coterminous boundaries, overlapping constituencies, common ground water aquifer, or other relationship other than monetary compensation that provides a motivation for the guarantor to provide a guarantee.~~
- P. ~~Tangible Net Worth means the tangible assets that remain after deducting liabilities; such assets do not include intangibles such as goodwill and rights to patents or royalties. For purposes of this definition, assets means all existing and all probable~~

~~future economic benefits obtained or controlled by a particular entity as a result of past transactions.~~

~~Q. Termination under Rule 869.B1 and B.2 means only those changes that may result in a gap in coverage as where the insured has not obtained substitute coverage or has obtained substitute coverage with a different retroactive date than the retroactive date of the original policy.~~

Rule 865. Amount and Scope of Required Financial Responsibility

A. Owners or operators of petroleum underground storage tanks must demonstrate financial responsibility for taking corrective action and for compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of petroleum underground storage tanks in at least the following per occurrence amounts: UST.

1. ~~For owners or operators of petroleum underground storage tanks that are located at petroleum marketing facilities, or that handle an average or more than 10,000 gallons of petroleum per month based on annual throughput for the previous calendar year: \$1.5 million;~~

2. ~~For all other owners or operator of petroleum underground storage tanks \$1 million.~~

B. Owners or operators of petroleum underground storage tanks must demonstrate financial responsibility for taking corrective action and for compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of petroleum underground storage tanks in at least the following annual aggregate amounts:

1. For owners or operators of 1 to 100 petroleum ~~underground storage tanks~~ UST, \$1.5 million; and

2. For owners or operators of 101 or more petroleum ~~underground storage tanks~~ UST, \$2.5 million.

~~C. For purposes of paragraphs B and F only, a petroleum or petroleum derived products underground storage tank means a single containment unit and does not mean combinations of single containment units.~~

C. D. ~~Except as provided in paragraph E, if an owner and operator uses separate mechanisms or separate combinations of mechanisms to demonstrate financial responsibility for different UST System that store petroleum or petroleum products, the total annual amount required will be based on the number of tanks covered by each of the separate mechanisms or by a combination thereof.~~

D. ~~If the owner or operator uses separate mechanisms or separate combinations of mechanisms to demonstrate financial responsibility for:~~

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1. Taking corrective action;
2. Compensating third parties for bodily injury and property damage caused by sudden accidental releases; or
3. Compensating third parties for bodily injury and property damage caused by ~~nonsudden~~sudden accidental releases, the amount of assurance provided by each mechanism or combination of mechanisms must be in the full amount specified in ~~paragraphs A and B of~~ this Rule.

~~E. If an owner or operator uses separate mechanisms or separate combinations of mechanisms to demonstrate financial responsibility for different petroleum underground storage tanks, the annual aggregate required shall be based on the number of tanks covered by each such separate mechanism or combination of mechanisms.~~

~~F. Owners or~~The owners and operators ~~shall~~should review the ~~total security amount of aggregate~~ assurance ~~provided that the policy provides,~~ whenever they purchase or install additional underground tanks to store petroleum or petroleum underground storage tanks are acquired or installed. If the number of petroleum underground storage tanks for which assurance must be provided exceeds 100, the owner or operator shall demonstrate financial responsibility in the amount of at least \$2 million of annual aggregate assurance by the anniversary of the date on which the mechanism demonstrating financial responsibility became effective. If assurance is being demonstrated by a combination of mechanisms, the owner or operator shall demonstrate financial responsibility in the amount of at least \$2 million of annual aggregate assurance by the first occurring effective date anniversary of any one of the mechanisms combined (other than a financial test or guarantee) to provide assurance products.

~~G. The amounts of assurance financial liability coverage required under this Rule exclude legal defense costs.~~

~~F. H. The required per occurrence for incident and annual aggregate coverage amounts for each total by year, do not limit, in any way limit, the personal liability of the owner or and operator.~~

Rule 866— Allowable Mechanisms and Combinations of Mechanisms

~~A. Subject to the limitations of paragraphs B and C of this Rule, an owner or operator, including a local government owner or~~The owner and operator, may use ~~any one (1) or any combination of~~ the mechanisms listed in Rule 867-873 to demonstrate financial responsibility under this Part ~~for, to demonstrate financial responsibility for one (1) or more underground storage tanks.~~

~~B. An owner or and operator may use a guarantee or surety bond to establish financial responsibility, only if the Attorney General complies with the legislation of the Commonwealth of Puerto Rico has submitted a written statement to the Board that a guarantee or surety bond~~

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~~executed as described in this Rule is a legally valid and enforceable obligation in Puerto Rico.~~

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~~C. An owner ~~or~~and operator may use self-insurance in combination with a guarantee only if, for the purpose of meeting the requirements of the financial test under this Part, the financial statements of the owner or operator are not consolidated with the financial statements of the guarantor.~~

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~~Rule 867—~~Financial Test of Self-Insurance

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~~A. A. An owner ~~or~~and operator, ~~and/or~~ guarantor, may satisfy the requirements ~~or~~ Rule 865 by passing a financial test as specified in ~~of~~ this Rule. To passpart by presenting the financial test of self-insurance, the owner or operator, ~~and/or~~ guarantor must meet the criteria of paragraph B or C of this Ruleevidence, based on year endthe financial statements of the last three (3) accounting years.~~

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~~The financial statements ~~for~~submitted by the latest completed fiscal year.~~

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~~B. B. 1. The owner ~~or~~and operator, ~~and/or~~ guarantor, must have ~~a~~demonstrate tangible net worth of at least ten (10) times: ten (10) million dollars or more;~~

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~~1. a) The total ~~sum~~ of the applicable ~~aggregate~~ amount required by ~~Rule 865~~this Part, based on the number of underground storage tanks for which a financial test is used to demonstrate financial responsibility to EPA or the Board, ~~under this Rule;Part,~~~~

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~~2. b) The sum of the ~~estimated cost of the~~ corrective action ~~cost estimates~~, the current ~~estimated cost of~~ closure and post-closure ~~care cost estimates~~, activities and the covered an amount ~~offor~~ liability ~~coverage~~, for which a financial test is used to demonstrate financial responsibility to EPA ~~under in accordance with~~ 40 CFR Parts 264.101, 264.143, 264.145, 265.143, 265.145, 264.147 and 265.147 or ~~to the Board; and,~~~~

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~~e) The sum of current plugging and abandonment cost estimates for which a financial test is used to demonstrate financial responsibility to EPA under 40 CFR Part 144.63 or to the Board under a state program authorized by EPA under 40 CFR Part 145.~~

~~2. The owner ~~or~~and operator, ~~and/or~~ guarantor must have a tangible net worth of at least \$10 million.~~

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~~3. 3. The owner or operator, ~~and/or~~ guarantor, must have a letter signed by the chief financial officer ~~worded as specified in paragraph D.~~~~

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~~4. The owner ~~or~~and operator, ~~and/or~~ guarantor, must either:~~

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~~a) File financial statements annually ~~with the U.S.~~ submit to the Board copies of the financial documents filed with the Securities and Exchange Commission, ~~the~~ of the United States, the Administration on Energy Information ~~Administration~~ or the Rural UtilitiesElectrification Service; or~~

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4. ~~b) Report what annually the firm's reported about to tangible net worth to Dun and Bradstreet, and Dun and Bradstreet must have assigned the firm's bonds accrediting company, which shall assign a financial strength rating of 4A or 5A.~~

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5. ~~5. The firm's financial end year-end financial statement, if independently audited, cannot accounting report, should be audited by an independent auditor and may not include an adverse auditor's opinion, a disclaimer of opinion, or a "going concern" qualification of the auditor, release of liability or a reservation on business continuity.~~

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~~C. C. The owner or operator, and/or guarantor must shall meet the financial test requirements of 40 CFR 264.147 (f)(1) by substituting the appropriate amount amounts specified in Rule 865.B.1 and B.2 for this Part by the amount of liability coverage each timewhenver specified in that Rule this Part.~~

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1. ~~1. The fiscal Financial end year-end financial statements accounting report of the owner or and operator, and/or guarantor, must shall be audited by an independent certified public accountant and must be accompanied withby the report of the certified public accountant's report that performed the audit.~~

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2. ~~2. The firm's year-end Company's financial statements cannot end year accounting report may not include an auditor's adverse audit opinion, a disclaimer release of opinion, liability or a "going concern" qualification reservation on business continuity.~~

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3. ~~3. The owner or and operator, and/or guarantor, must have submit a letter signed by the chief financial officer, worded as specified in paragraph D chief, drafted in accordance with the laws and regulations of the Commonwealth of Puerto Rico.~~

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4. ~~4. If the financial statements reports of the owner or and operator, and/or guarantor, are not submitted presented annually to with the U.S. Securities and Exchange Commission, of the United States, the Administration Energy Information Administration or the Rural Utilities or Service Rural Electrification, the owner or and operator, and/or guarantor, must obtain a special report by an independent certified public account stating accountant that states the following:~~

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a) ~~He/She The counter, has compared the data that provided in the letter from the chief financial officer specifies as having been derived from the latest year-end financial statements of the owner or operator, and/or guarantor, with the amounts in such financial statements; and~~

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b) ~~In connection with that comparison, no matters came to his/her attention, which caused him/her to believe that the specified data should be adjusted.~~

~~D. To demonstrate that it meets the financial test under paragraph B or C, the chief financial officer of the owner or operator, and/or guarantor, must sign, within 120 days of the close of each financial reporting year, as defined by the twelve (12) months period for which financial statements used to support the financial test are~~

prepared, a letter worded exactly as follows, except that the instructions in brackets are to be replaced by the relevant information and the brackets deleted:

Letter from Chief Financial Officer

- i. ~~"I am the chief financial officer of [insert name and address] the company, which specified that they were derived from the financial statement to the most recent accounting year of the owner or operator, or guarantor. This letter is in support of the use of [insert "the financial test of self insurance" and/or "guarantee"] to demonstrate financial responsibility for [insert "taking corrective action" and/or "compensating third parties for bodily injury and property damage"] caused by [insert "sudden accidental releases" or "nonsudden accidental releases" or "accidental releases"] in the amount of at least [insert dollar amount] per occurrence and [insert dollar amount] annual aggregate arising from operating (an) underground storage tanks, with the amounts shown in such financial statement, and~~

~~Underground storage tanks at the following facilities are assured by this financial test or a financial test under the Commonwealth of Puerto Rico program by this [insert "owner or operator", and/or "guarantor"]. [List for each facility the name and address of the facility where tanks assured by this financial test are located. If separate mechanisms or combination of mechanisms are being used to assure any of the tanks at this facility, list each tank assured by this financial test or a financial test under the Commonwealth program (authorized by the EPA under 40 CFR 281) by the tank identification number provided in the notification submitted to the Environmental Quality Board pursuant to Rule 809 of the Underground Storage Tanks Control Regulation].~~

~~A [insert: "financial test", and/or "guarantee"] is also used by this [insert: "owner or operator", or "guarantor"] to demonstrate evidence of financial responsibility in the following amounts under other EPA regulations and the Commonwealth of Puerto Rico program authorized by EPA under 40 CFR Parts 271 and 145."~~

EPA Regulation: _____ **Amount**

Closure (Sections 264.143 and 265.143).....	\$ _____
Post Closure Care (Sections 264.145 and 265.145).....	\$ _____
Liability Coverage (Sections 264.147 and 265.147).....	\$ _____
Corrective Action (Section 264.101(b)).....	\$ _____
Plugging and Abandonment (Section 144.63).....	\$ _____

Authorized Program of Puerto Rico:

Amount

Closure.....	\$ _____
Post Closure Care.....	\$ _____
Liability Coverage.....	\$ _____
Corrective Action.....	\$ _____

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Plugging and Abandonment.....\$
TOTAL.....

This ~~[insert: "owner or operator", or "guarantor"]~~ has not received an adverse opinion, a disclaimer of opinion, or a "going concern" qualification from an independent auditor on his financial statements for the latest completed fiscal year.

~~[Fill in the information for Alternative I if the criteria of paragraph B of Rule 867 are being used to demonstrate compliance with the financial test requirements. Fill in the information for Alternative II if the criteria of paragraph C of Rule 867 are being used to demonstrate compliance with the financial test requirements].~~

ALTERNATIVE I

- ~~1. Amount of annual UST aggregate coverage being assured by a financial test, and/or guarantee... \$~~
- ~~2. Amount of corrective action, closure and post-closure care costs, liability coverage, and abandonment costs covered by a financial test, and/or guarantee..... \$~~
- ~~3. Sum of lines 1 and 2..... \$~~
- ~~4. Total tangible assets..... \$~~
- ~~5. Total liabilities (if any of the amount reported on line 3 is included in total liabilities, you may deduct that amount from this line and add that amount to line 6)... \$~~
- ~~6. Tangible net worth (subtract line 5 from line 4)..... \$~~
- ~~7. Is line 6 at least \$10 million? Yes No~~
- ~~8. Is line 6 at least 10 times line 3?~~
- ~~9. Have financial statements for the latest fiscal year been filed with the Securities and Exchange Commission?~~
- ~~10. Have financial statements for the latest fiscal year been filed with the Energy Information Administration?~~
- ~~11. Have financial statements for the latest fiscal year been filed with the Rural Utilities Service?~~
- ~~12. Has financial information been provided to Dun and Bradstreet, and has Dun and Bradstreet provided a~~

financial strength rating of 4A or 5A? (Answer "Yes" only if both criteria have been met:

ALTERNATIVE II

1. ~~Amount of annual UST aggregate coverage being assured by financial test, and/or guarantee.....~~ \$
2. ~~Amount of corrective action, closure and post-closure care costs, liability coverage, and plugging and abandonment costs covered by a financial test, and/or guarantee.....~~ \$
3. ~~Sum of lines 1 and 2.....~~ \$
4. ~~Total tangible assets.....~~ \$
5. ~~Total liabilities (if any of the amounts reported on line 3 is included in total liabilities, you may deduct that amount from this line and add that amount to line 6)...~~ \$
6. ~~Tangible net worth (subtract line 5 from line 4).....~~ \$
7. ~~Total assets in the U.S. [required only if less than 90 percent of assets are located in the U.S.].....~~ \$
8. ~~Is line 6 at least \$10 million?~~ ~~Yes~~ ~~No~~
9. ~~Is line 6 at least 10 times line 3?~~
10. ~~Are at least 90 percent of assets located in the U.S.? [If "No", complete line 11].....~~
11. ~~Is line 7 at least 6 times line 3?~~
~~[Fill in either lines 12-15 or lines 16-18]:~~
12. ~~Current assets.....~~ \$
13. ~~Current liabilities.....~~ \$
14. ~~Net working capital [subtract line 13 from line 12]...~~ \$
15. ~~Is line 14 at least 6 times line 3?~~ ~~Yes~~ ~~No~~
16. ~~Current bond rating of most recent bond issue.....~~

17. Name of rating service.....

18. Date of maturity of bond.....

19. Have financial statements for the latest fiscal year been
filed with the SEC, the Energy Information
Administration, or the Rural Utilities Service?

[If "No", please attach a report from an independent certified public
accountant certifying that there are no material differences between the data
as reported in lines 4-18 above and the financial statements for the latest
fiscal year].

[For both Alternative I and Alternative II complete the certification with
this statement].

I hereby certify that the wording of this letter is identical to the wording
specified in Rule 867.D as such regulations were constituted on the date
shown immediately below.

[Signature]
[Name]
[Title]
[Date]

ii. E. If an owner or In connection with this comparison, one issue arose not make him
believe that the data specified in the letter alluded should be adjusted.

D. To demonstrate that they meet the financial test requirements of this Rule, the finance director
of the owner and operator must sign within one hundred twenty (120) days of the close of each
financial year, defined as the period of twelve (12) months for which they were prepared
financial reports used to support the financial test, a letter written in accordance with the laws
and regulations of the Commonwealth of Puerto Rico.

E. If the owner and operator using the test to provide financial assurance finds that he or she no
longer meets the requirements of the financial test based on the year-end financial
statements reporting year end, the owner or and operator must obtain an alternate coverage cover
within one hundred fifty (150) days prior to the end of the year for which the financial
statements reports have been prepared.

F. F. The Executive Director Chairman of the Board may require the owner and operator reports
of financial condition at any time from the owner or operator, and/or guarantor, it deems
appropriate. If the Executive Director Chairman of the Board finds, is based on the basis of such
reports or other information that the owner or operator, and/or guarantor, no longer meets the
financial test requirements of Rule 867.B or C and D this Part, the owner or operator must

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obtain ~~an~~ alternate ~~coverage~~cover within ~~thirty (30)~~ days after ~~notification~~being notified by ~~certified~~registered mail of such ~~a~~ finding.

~~G. G.~~ If the owner ~~or~~and operator fails to obtain alternate assurance within ~~one hundred fifty (150)~~ days ~~of finding~~after found that he or she no longer meets the ~~requirements of the~~ financial test ~~requirements~~ based on the ~~year-end financial statements~~reporting year end, or within ~~thirty (30)~~ days of ~~notification by the Executive Director~~President of the Board will be notified that he or she no longer meets the requirements of the financial test, the owner or operator ~~must~~shall notify the ~~Executive Director~~Chairman of the Board of such failure within ~~a period of~~ ten (10) days.

Rule 868 — Corporate Guarantee

~~A.~~ An owner or operator may satisfy the requirements of ~~Rule 865~~this Part by obtaining a guarantee that conforms to the requirements of this Rule. The guarantor must be:

1. A firm that:

~~a. a)~~ Possesses a controlling interest in the owner or operator;

~~b. e)~~ Possesses a controlling interest in a firm described under A.1.a; or,

~~b. e)~~ Is controlled through stock ownership by a common parent firm that possesses a controlling interest in the owner or operator

2. A firm engaged in a substantial business relationship with the owner or operator and issuing the guarantee as an act incident to that business relationship.

~~B.~~ Within ~~one hundred twenty (120)~~ days of the close of each financial reporting year the guarantor must demonstrate that it meets the financial test criteria of Rule 867 based on year-end financial statements for the latest completed financial reporting year by completing the letter from the chief financial officer described in Rule 867.D and must forward the letter to the owner or operator. If the guarantor fails to meet the requirements of the financial test at the end of any financial reporting year, within ~~one hundred twenty (120)~~ days of the end of that financial reporting year, the guarantor shall send by certified mail and, before cancellation or nonrenewal of the guarantee or notice to the owner or operator. If the President of the Board notifies the guarantor that ~~he/she/they~~ no longer meets the requirements of the financial test of Rule 867.B or C and D, the guarantor must notify the owner or operator within ~~ten (10)~~ days of receiving such notification from the Board. In both cases, the guarantee will terminate ~~one hundred twenty (120)~~ days after the date the owner or operator receives the notification, as evidenced by the return receipt. The owner or operator must obtain alternate coverage ~~as specified in Rule 864.C.~~

~~C.~~ The guarantee must be ~~worded as follows, except that instructions in brackets are to be replaced with the relevant information and the brackets deleted:~~

CORPORATE GUARANTEE

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C. Guarantee made this [date] by [name of guaranteeing entity], a business entity organized under the laws and regulations of the Commonwealth of Puerto Rico, herein referred to as guarantor, to Environmental Quality Board and to any and all third parties, and obligees, on behalf of [owner or operator] of [business address].

Details

1. ~~Guarantor meets or exceeds the financial test criteria Rule 867.B or C and D and agrees to comply with the requirements for guarantors as specified in Rule 868.B.~~
2. ~~[Owner or operator] owns or operates the following underground storage tank (s) covered by this guarantee: [List the number of tanks at each facility and the name(s) and address(es) of the facility(ies) where the tanks are located. If more than one instrument is used to assure different tanks at any one facility, for each tank covered by this instrument, list the tank identification number provided in the notification submitted pursuant to Rule 856 and the name and address of the facility]. This guarantee satisfies Part IX of the Puerto Rico Underground Storage Tanks Control Regulation requirements for assuring funding for [insert: "taking corrective action and/or compensating third parties of bodily injury and property damage caused by either sudden accidental releases or nonsudden accidental releases or accidental release"; if coverage is different for different tanks or locations, indicate the type of coverage applicable to each tank or location] arising from operating the above identified underground storage tank(s) in the amount of [insert dollar amount] per occurrence and [insert dollar amount] annual aggregate.~~
3. ~~[Insert appropriate phrase: "On behalf of our subsidiary" (if guarantor is corporate parent of the owner or operator); "On behalf of our affiliate" (if guarantor is a related firm of the owner or operator); or "incident to our business relationship with" (if guarantor is providing the guarantee as an incident to a substantial business relationship with owner or operator)] the guarantor guarantees to the Environmental Quality Board and to any and all third parties that:~~

~~In the event that [owner or operator] fails to provide alternate coverage within 60 days after receipt of a notice of cancellation of this guarantee and the Executive Director of the Environmental Quality Board has determined or suspects that a releases has occurred at an underground storage tank covered by this guarantee, the guarantor, upon instructions from the Executive Director of the Board, shall fund a standby trust fund in accordance with the provisions of Rule 882, in an amount not to exceed the coverage limits specified above.~~

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~~In the event that the President of the Board determines that [owner or operator] has failed to perform corrective action for releases arising out of the operation of the above identified tanks(s) in accordance with Part VI of the Puerto Rico Underground Storage Tank Control Regulation the guarantor upon written instruction from the President of the Board shall fund a standby trust in accordance with the provisions of Rule 882, in an amount not to exceed the coverage limits specified above.~~

~~If [owner or operator] fails to satisfy a judgment or award based on a determination of liability for bodily injury or property damage to third parties caused by ["sudden" and/or "nonsudden"] accidental releases arising from the operation of the above identified tanks(s), or fails to pay an amount agreed to in settlement of a claim arising from or alleged to arise from such injury or damage, the guarantor, upon written instructions from the Executive Director of the Board, shall fund a standby trust in accordance with the provisions of Rule 882 to satisfy such judgment(s), award(s), or settlement agreement(s) up to the limits of coverage specified above.~~

- ~~4. Guarantor agrees that if, at the end of any fiscal year before cancellation of this guarantee, the guarantor fails to meet the financial test criteria of Rule 867.B or C and D, guarantor shall send, within 120 days of such failure, by certified mail notice to owner or operator. The guarantee will terminate 120 days from the date of receipt of the notice by [owner or operator], as evidenced by the return receipt.~~
- ~~5. Guarantor agrees to notify [owner or operator] by certified mail of a voluntary or involuntary bankruptcy proceeding under Title 11, U.S. Code, naming guarantor as debtor, within 10 days after commencement of the proceeding.~~
- ~~6. Guarantor agrees to remain bound under this guarantee notwithstanding any modification or alteration of any obligation of [owner or operator] pursuant to Part IX of the Puerto Rico Underground Storage Tank Control Regulation.~~
- ~~7. Guarantor agrees to remain bound under this guarantee for so long as [owner or operator] must comply with the applicable financial responsibility requirements of Puerto Rico Underground Storage Tanks Control Regulation, Part IX, for the above identified tank(s), except that guarantor may cancel this guarantee by sending notice by certified mail to (owner or operator), such cancellation shall be effective 120 days after receipt of such notice by [owner or operator], as evidenced by the return receipt.~~
- ~~8. The guarantor's obligation does not apply to any of the following:~~

- ~~a) Any obligation of [name of owner or operator] under a workers' compensation, disability benefits, or unemployment compensation law or other similar law;~~
- ~~b) Bodily injury to an employee of [name of owner or operator] arising from, and in the course of, employment by [name of owner or operator];~~
- ~~c) Bodily injury or property damage arising from the ownership, maintenance, use, or entrustment or others of any aircraft, motor vehicle, or watercraft;~~
- ~~d) Property damage to any property owned, rented, loaned to, in the care, custody, or control of, or occupied by [name owner or operator] that is not the direct result of a release from a petroleum underground storage tank;~~
- ~~e) Bodily damage of property damage for which [name of owner or operator] is obligated to pay damages by reason of the assumption of liability in a contract or agreement other than a contractor agreement entered into to meet the requirements of Rule 865.~~

~~9. Guarantor expressly waives notice of acceptance of this guarantee by the Environmental Quality Board by any or all third parties, or by [owner or operator].~~

~~I hereby certify that the terms of this guarantee is (are) inherent to the terms specified in Rule 868.C, as such regulations were constituted on the effective date shown immediately below.~~

~~Effective date: _____
[Name of guarantor]
[Authorized signature for guarantor]
[Name of person signing]
[Title of person signing]~~

~~Signature of witness or notary: _____
Seal (if applies)~~

D. An owner ~~or~~**and** operator who uses a guarantee to satisfy the requirements of Rule 865 must establish a ~~standby~~**stand by** trust fund when the guarantee is obtained. Under the terms of the guarantee, all amounts paid by the guarantor under the guarantee will be deposited directly into the ~~standby~~**stand by** trust fund in accordance with instructions from the Executive Director of the Board under Rule ~~882878~~**882878**. This stand by trust fund must meet the requirements specified in Rule 873.

Rule 869 — Insurance and Risk Retention Group Coverage

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~~A. A.~~ An owner ~~or~~and operator may satisfy the requirements of Rule 865 by obtaining liability insurance, from a qualified insurer or risk retention group that conforms to the requirements of this Rule. Such insurance should be in the form of a separate insurance policy or an endorsement to an existing insurance policy.

~~B.~~ Each insurance policy must be amended ~~by~~with an endorsement ~~worded as specified in paragraph B.1 or evidenced by a certificate of insurance worded as specified in paragraph B.2, except that instructions in brackets must, they should be replaced~~drafted in accordance with the ~~relevant information~~laws and the ~~brackets deleted~~

ENDORSEMENT

Name: _____ [~~name~~regulations] of ~~each~~ covered location] _____

~~B.~~ Address: _____ [~~address~~the Commonwealth of ~~each~~ covered location] _____
Puerto Rico, _____

Policy number: _____

Period of Coverage: [~~current~~ _____ policy _____ period] _____

Name of [~~Insurer or Risk Retention Group that provides coverage~~]: _____

Address of [~~Insurer or Risk Retention Group~~]: _____

Name of Insured: _____

Address of Insured: _____

Endorsement:

1. [~~Name of Each insurance policy must be issued by an insurer or risk retention group that, at least, is authorized to conduct transactions in the Insurer or Risk Retention Group~~] hereby certifies that the policy to which this endorsement is attached ~~provides liability insurance covering the following underground storage tanks:~~

[List the number of tanks at each facility and the name(s) and address(es) of the facility(ies) where the tanks are located. If more than one instrument is used to assure different tanks at any one facility, for each tank covered by this instrument, list the tank identification number provided in the notification submitted pursuant to Rule 809, and the name and address of the facility].

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for ~~[insert: "taking corrective action and/or compensating third parties for bodily injury and property damage caused by either sudden accidental releases or nonsudden accidental releases or accidental release in accordance with and subject to the limits and liability, exclusions, conditions, and other terms of the policy; if coverage is different for different tanks or locations, indicate the type of coverage applicable to each tank or location]~~ arising from operating the underground storage tank(s) identified above.

The limits of liability are ~~[insert the dollar amount of "each occurrence" and "annual aggregate" limits of the Insurer's or Group's liability; if the amount of coverage is different for different types of coverage or for different underground storage tanks or locations, indicate the amount of coverage for each type of coverage and/or for each underground storage tank or location];~~ exclusive of legal defense costs which are subject to a separate limit under the policy. This coverage is provided under ~~[policy number]~~. The effective date of said policy is ~~[date]~~.

2. ~~The insurance provided with respect to such occurrences is subject to all of the terms and conditions of the policy; provided, however, that any provisions inconsistent with subsections (a) through (e) of this paragraph are hereby amended to conform with subsections (a) through (e):~~

a) ~~Bankruptcy or insolvency of the insured shall not relieve the ["Insurer" or "Group"] of its obligations under the policy to which this endorsement is attached.~~

b) ~~The ["Insurer" or "Group"] is liable for the payment of amounts within any deductible applicable to the policy to the provider of corrective action or a damaged third party, with a right of reimbursement by the insured for any such payment made by the ["Insurer" or "Group"]. This provision does not apply with respect to that amount of any deductible for which coverage is demonstrated under another mechanism or combination of mechanisms as specified Rules 867-878.~~

e) ~~Whenever requested by the Executive Director of the Environmental Quality Board, the ["Insurer" or "Group"] agrees to furnish to the Environmental Quality Board a signed duplicate original of the policy and all corresponding endorsements.~~

d) ~~Cancellation or any other termination of the insurance by the ["Insurer" or "Group"], except for non payment of premium or misrepresentation by the insured, will be effective only upon written notice and only after the expiration of 60 days after a copy of such written notice is received by the insured.~~

~~Cancellation for non payment of premium or misrepresentation by the~~

insured will be effective only upon written notice and only after expiration of a minimum of ten (10) days after a copy of such written notice is received by the insured.

[Insert for claims-made policies]:

- e) ~~The insurance covers claims otherwise covered by the policy that are reported to the [“Insurer” or “Group”] within six months of the effective date of cancellation or non-renewal of the policy except where the new or renewed policy has the same retroactive date or a retroactive date earlier than that of the prior policy, and which arise out of any covered occurrence that commenced after the policy retroactive date, if applicable, and prior to such policy renewal or termination date. Claims reported during such extended reporting period are subject to the terms, conditions, limits, including limits of liability and exclusions of the policy].~~

~~I hereby certify that the terms of this instrument are identical to the terms in Rule 869.B.1 and that the [Insurer or Group] is [“licensed to transact the business]field of insurance or eligible to provide insurance as an excess insurer or surplus lines insurer in one or more States].~~

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[Signature of Authorized Representative of Insurer or Risk Retention Group]

[Name of person signing]

[Title of person signing], Authorized Representative

[Name of Insurer or Risk Retention Group]

[Address of Authorized Representative]

CERTIFICATE OF INSURANCE

Name: *[name of each cover location]*

Address: *[address of each covered location]*

Policy number: _____

Endorsement (if applicable): _____

Period of Coverage: _____ *[current policy period]*

Name of *[insurer or Risk Retention Group]*: _____

Address of *[Insurer or Risk Retention Group]*: _____

Name of Insured: _____

Address of Insured: _____

Certification:

1. ~~[Name of Insurer or Risk Retention Group], [the “Insurer” or “Group”], as identified above, hereby certifies that it has issued liability insurance covering the following underground storage tank(s);~~

~~[List the number of tanks at each facility and the names and address of each facility where the tanks are located. If more than one instrument is used to assure different tanks at any one facility, for each tank covered by its respective instrument, list the tank identification number provided in the notification submitted pursuant to Rule 809, and the name and address of the facility].~~

~~for [insert: “taking corrective action” and/or “compensating third parties for bodily injury and property damage caused by” either “sudden accidental releases” or “nonsudden accidental releases” or “accidental releases”; in accordance with and subject to the limits of liability, exclusions, conditions, and other terms of the policy. If coverage is different for different tanks or locations, indicate the type of coverage applicable to each tank or location] arising from operating the underground storage tank(s) identified above.~~

~~The limits of liability are [insert the dollar amount of the “each occurrence” and “annual aggregate” limits of the insurer’s or Group’s liability; if the amount of coverage is different for different types of coverage or for different underground storage tanks or locations, indicate the amount of coverage for each type of coverage and/or for each underground storage tank or location], exclusive of legal defense costs which are subject to a separate limit under the policy. This coverage is provided under [policy number]. The effective date of said policy is [date].~~

2. ~~The [“Insurer” or “Group”] further certifies the following with respect to the insurance described in Paragraph 1:~~

- a) ~~Bankruptcy or insolvency of the insured shall not relieve the [“Insurer” or “Group”] of its obligations under the policy to which this certificate applies.~~
- b) ~~The [“Insurer” or “Group”] is liable for the payment of amounts within any deductible applicable to the policy to the provider of corrective action or a damaged third party, with a right of reimbursement by the insured for any such payment made by the [“Insurer” or “Group”]. This provision does not apply with respect to that amount of any deductible for which coverage is demonstrated under another mechanism or combination of mechanisms as specified in Rule 867-878.~~

e) Whenever requested by the Executive Director of the Board, the ["Insurer" or "Group"] agrees to furnish to the President of the Board a signed duplicate original of the policy and all endorsements.

d) Cancellation or any other termination of the insurance by the ["Insurer" or "Group"] except for non payment of premium or misrepresentation by the insured, will be effective only upon written notice and only after the expiration of 60 days after a copy of such written notice is received by the insured.

Cancellation for non payment of premium or misrepresentation by the insured will be effective only upon written notice and only after expiration of a minimum of ten (10) days after a copy of such written notice is received by the insured.

[Insert for claims-made policies]:

e) The insurance covers claims otherwise covered by the policy that are reported to the ["Insurer" or "Group"] within six (6) months of the effective date of cancellation or non renewal of the policy except where the new or renewed policy except where the new or renewed policy has the same retroactive date or a retroactive date earlier than that of the prior policy, and which arise out of any covered occurrence that commenced after the policy retroactive date, if applicable, and prior to such policy renewal or termination date. Claims reported during such extended reporting period are subject to the terms, conditions, limits, including limits of liability, and exclusions of the policy.

C. I hereby certify that the terms of this instrument are identical to the terms in Rule 869.B.2 that the ["Insurer" or "Group"] is ["licensed to provide the business of insurance, or eligible to provide insurance as an excess or surplus lines insurer, in one or more states"].

[Signature or Authorized Representative of Insurer]

[Type name of Authorized Representative]

[Title], Authorized Representative of [name of insurer or Risk Retention Group]

[Address of Representative]

Each insurance policy must be issued by an insurer or a risk retention group that, at a minimum, is licensed to transact the business of insurance or eligible to provide insurance as an excess or surplus lines insurer in one or more states.

Rule 870 — Surety Bond

A. An owner ~~or~~and operator may satisfy the requirements of Rule 865 by obtaining a surety bond that conforms to the requirements of this Rule. The Surety Company issuing the bond must be among those listed as acceptable sureties on federal bonds in the latest Circular 570 issued of

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the U.S. Department of the Treasury.

B. ~~The surety bond must be worded as follows, except that instructions in brackets must be replaced with the relevant information and the brackets deleted:~~

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PERFORMANCE BOND

Date bond executed: _____

Period of coverage: _____

Principal: ~~[legal name and business address of owner or operator]~~

Type of organization: ~~[insert "individual", "joint venture", "partnership", or "corporation"]~~

State of incorporation (if applicable): _____

Surety(ies): ~~[name(s) and business address(es)]~~

Scope of Coverage: ~~[List the number of tanks at each facility and the name and address of each corresponding facility where the corresponding tanks are located. If more than one instrument is used to assure different tanks at any one facility, for each tank covered by this instrument, list the tank identification number provided in the notification submitted pursuant to Rule 809 and the name and address of the facility. List the coverage guaranteed by the bond: "taking corrective action" and/or "compensating third parties for bodily injury and property damage caused by" either "sudden accidental releases" or "nonsudden accidental releases" or "accidental releases" "arising from operating the underground storage tank"].~~

Total sum of penalties specified in the bond:

_____ Per incident \$ _____

_____ Annual aggregate \$ _____

Sureties bond number: _____

Know All Persons, that we, the Principal and Surety (ies), here to are firmly bound to the Environmental Quality Board, with the above sum(s) or penalty(ies) for the payment of which we bind ourselves, our heirs, executors, administrators, successors, and assign jointly and severally; provided that, where the surety(ties) are corporations acting as co-sureties, we, the Sureties, bind ourselves in such sums, only for the purpose of addressing an action or joint action(s) against any or all of us, and for all other purpose each bond is obligated jointly with the Principal, for the payment of such sums only as established on the front of such bond, but if a risk limit is not established, this will be the quantity of the sums or penalties.

Whereas said Principal is required under Subtitle I of the Solid Waste Disposal Act,

as amended, to provide financial assurance for [insert: "taking corrective action" and/or "compensating third parties for bodily injury and property damage caused by" either "sudden accidental releases" or "nonsudden accidental releases" or "accidental releases"; if coverage is different for different tanks or locations, indicate the type of coverage applicable to each tank or location] arising from operating the underground storage tanks identified above, and

Whereas said Principal shall establish a stand by trust fund as is required when a surety bond is used to provide such financial assurance;

Now, therefore, the conditions of the obligation are such that the Principal shall faithfully take corrective action; be drafted in accordance with Part VI of the Puerto Rico Underground Storage Tank Control Regulation and requirements of the Executive Director of the Environmental Quality Board and/or compensate third parties for bodily injury and property damage caused by" either "sudden accidental releases" or "nonsudden accidental releases" or "accidental releases"] arising from operating the tank(s) identified above, or if the Principal shall provide alternate financial assurance, as specified in Part IX of the Puerto Rico Underground Storage Tank Regulation, within 120 days after the date the notice of cancellation is received by the Principal from the Surety(ies), then this obligation shall be null and void; otherwise it is to remain in full force and effect.

Such obligation does not apply to any of the following:

- a) Any obligation of [insert owner or operator] under a workers' compensation, disability benefits, or unemployment compensation law or other similar law;
- b) Bodily injury to an employee of [insert owner or operator] arising from, and in the course of, employment by [insert owner or operator];
- c) Bodily injury or damage to property left under care of others, any aircraft, motor vehicle, or watercraft;
- d) Damage to any property owned, rented, loaned to, left in the care of, under custody of, or control of, or occupied by [insert owner or operator] that is not the direct result of a release from an underground storage tank holding petroleum or petroleum derivatives;
- e) Bodily injury or property damage for which [insert owner or operator] is obligated to pay damages due to assumption of liability in a contract or agreement other than a contract or agreement entered into to meet the requirements of Rule 865.

A. The surety(ies) shall become liable on this bond obligation only when the Principal has failed to fulfill the conditions described above.

Upon notification by the Executive Director of the Environmental Quality Board

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~~that the Principal has failed to ["take corrective action, in accordance with Part VI of the Puerto Rico Underground Storage Tank Regulation and the Executive Director of the Board's instructions and/or "compensate injured third parties"] as guaranteed by this bond, the Surety(ies) shall either perform [corrective action in accordance with Puerto Rico Underground Storage Tanks Control Regulation and instructions of the Board's Executive Director, and/or third party liability compensation] or place funds in an amount up to the annual aggregate penalty sum into the standby trust fund as directed by the Executive Director of the Board under Rule 882.~~

~~Upon notification by the Executive Director of the Board that the Principal has failed to provide alternate financial assurance within 60 days after the date the notice of cancellation is received by the Principal from the Surety(ies) and that the Executive Director of the Board has determined or suspects that a release has occurred, the Surety(ies) shall place funds in an amount not exceeding the annual aggregate penalty sum into the standby trust fund as directed by the Executive Director of the Board under Rule 882.~~

~~The Surety(ies) hereby waive(s) notification of amendments to applicable laws, statutes, rules, and regulations and agreed that no such amendment shall in any way alleviate the obligation(s) with respect to this bond of the Commonwealth of Puerto Rico.~~

~~The liability of the Surety(ies) shall not be discharged by any payment or succession of payments hereunder, unless and until such payment or payments shall be equal to the annual aggregate for penalties specified in the bond, but in no event shall the obligation of the Surety(ies) hereunder exceed the amount of said annual aggregate sum for penalties.~~

~~The Surety(ies) may cancel the bond by sending notice of cancellation by certified mail to the Principal, provided, that cancellation shall not occur during the 120 days beginning on the date of receipt of the notice of cancellation by the Principal, as evidenced by the return receipt.~~

~~The Principal may terminate this bond by sending written notice to the Surety(ies).~~

~~In Witness thereof, the Principal and Surety(ies) have executed this bond and have affixed their seals on the date set forth above.~~

~~The persons whose signatures appear below hereby certify that they are authorized to execute this surety bond on behalf of the Principal and Surety(ies) and that the wording of this surety bond is identical to the wording specified in Rule 870.B as such regulations were constituted on the date this bond was executed.~~

PRINCIPAL

[Signature(s)]

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[Name(s)]

[Titles(s)]

[Corporate Seal]

CORPORATE SURETY(IES)

[Name and address]

State of Incorporation: _____

Liability limit: \$ _____

[Signature(s)]: _____

[Name(s) and title(s)]: _____

[Corporate seal]

~~[For every co-surety, provide signature(s), corporate seal, and other information in the same manner as for Surety above].~~

Bond premium: \$ _____

C. Under the terms of the bond, the surety will become liable on the bond obligation when the owner or operator fails to perform as guaranteed by the bond. In all cases, the surety's liability is limited to the per-occurrence and annual aggregate penalty sums.

D. The owner ~~or~~and operator who uses a surety bond to satisfy the requirements of Rule 865 must establish a ~~standby~~stand by trust fund when the surety bond is acquired. Under the terms of the bond, all amounts paid by the surety under the bond will be deposited directly into the ~~standby~~stand by trust fund in accordance with instructions from the Executive Director of the Board under Rule ~~882878~~. This ~~standby~~stand by trust fund must meet the requirements specified in Rule 873.

Rule 871—Letter of Credit

A. An owner ~~or~~and operator may satisfy the requirements of Rule 865 by obtaining an irrevocable ~~standby~~stand by letter of credit that conforms to the requirements of this Rule. The issuing institution must be an entity that has the authority to issue letters of credit in la jurisdiction of Puerto Rico and whose letter-of-credit operations are regulated and overseen by a federal agency or agency of Puerto Rico.

B. The letter of credit must be ~~worded as follows, except that instructions in brackets are to be replaced with the relevant information and the brackets deleted~~written according to the laws and regulations of the Commonwealth of Puerto Rico.

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IRREVOCABLE STANDBY LETTER OF CREDIT

[Name and address of issuing institution]

[Name and address of the Executive Director of the Environmental Quality Board]

Dear Sir or Madam: We hereby establish our Irrevocable Standby Letter of Credit No. ____ in your favor, at the request and for the account of [owner or operator name] of [address] up to the aggregate amount of [in words] U. S. dollars (\$ _____ [insert dollar amount]), available upon presentation "by the Executive Director of the Environmental Quality Board of"

1. your sight draft, bearing reference to this Letter of Credit, No. _____, and
2. your signed statement reading as follows: "I certify that the amount of the draft is payable pursuant to regulations issued under authority of Subtitle I of the Solid Waste Disposal Act of 1976, as amended".

~~This letter of credit may be drawn on the cover [insert: "taking corrective action" and/or "compensating third parties for bodily injury and property damage caused by" either "sudden accidental releases" or "nonsudden accidental releases" or "accidental releases"] arising from operating the underground storage tank(s) identified below in the amount of [in words] dollars [\$ insert dollar amount in numbers] per occurrence and amount of [in words] dollars [\$ insert dollar amount in numbers] annual aggregate:~~

~~[List the number of tanks at each facility and the name(s) and address(es) of the facility(ies) where the tanks are located. If more than one instrument is used to assure different tanks at any one facility, for each tank covered by this instrument, list the tank identification number provided in the notification submitted pursuant to Rule 809, and the name and address of the facility].~~

The letter of credit may not be drawn on the cover any of the following:

- a) ~~Any obligation of [insert owner or operator] for disability benefits, for workers' compensation, or other similar law;~~
- b) ~~Bodily injury to an employee of [inset owner or operator] arising from, and in the course of, employment by [insert owner or operator];~~
- c) ~~Bodily injury or property damage arising from the ownership, maintenance, use, or entrustment to others of any aircraft, motor vehicle, or watercraft;~~
- d) ~~Property damage to any property owned, rented, loaned to, in the care, custody, or control of, or occupied by [insert owner or operator] that is not the direct result of a release from a petroleum underground storage tank;~~

e) Bodily injury or property damage for which [insert owner or operator] is obligated to pay damages by reason of the assumption of liability in a contract or agreement other than a contract or agreement entered into to meet the requirements of Rule 865.

This letter of credit is effective as of [date] and shall expire on [date], but such expiration date shall be automatically extended for a period of [at least the length of the original term] on [expiration date] and on each successive expiration date, unless, at least 120 days before the current expiration date, we notify [owner or operator] by certified mail that we have decided not to extend this letter of credit beyond the current expiration date. In the event that [owner or operator] is so notified, any unused portion of the credit shall be available upon presentation of your sight draft for 120 days after the date of receipt by [owner or operator], as shown on the signed return receipt.

Whenever this letter of credit is drawn on under and in compliance with the terms of this credit, we shall duly honor such draft upon presentation to us, and we shall deposit the amount of the draft directly into the standby trust fund of [owner or operator] in accordance with your instructions.

We certify that the working of this letter of credit is identical to the wording specified in Rule 871.B as such regulations were constituted on the date shown immediately below:

[Signature(s) and title(s) of official(s) of issuing institution].

[Date]

This credit is subject to [insert "the most recent edition of the Uniform Customs and Practice for Documentary Credits, published by the International Chamber of Commerce", or "the Uniform Commercial Code"].

C. An owner ~~or~~and operator who uses a letter of credit to satisfy the requirements of Rule 865 must also establish a ~~standby~~stand by trust fund when the letter of credit is acquired. Under the terms of the letter of credit, all amounts paid pursuant to a draft by the Executive Director of the ~~Environmental Quality Board~~EQB will be deposited by the issuing institution directly into the ~~standby~~stand by trust fund in accordance with instructions from the Executive Director of the Board under Rule ~~882878~~. This ~~standby~~stand by trust fund must meet the requirements specified in Rule 873.

D. This letter of credit must be irrevocable with a term specified by the issuing institution. The letter of credit must provide that credit be automatically renewed for the same term as the original term, unless, at least ~~one hundred twenty~~ (120) days before the current expiration date, the issuing institution notifies the owner or operator by certified mail of its decision not to renew the letter of credit. Under the terms of the letter of credit, the ~~one hundred twenty~~ (120) days will begin on the date when the owner or operator receives the notice, as evidenced by the return

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receipt.

Rule 872 — Trust Fund

- A.** An owner ~~or~~and operator may satisfy the requirements of Rule 865 by establishing a trust fund that conforms ~~to in accordance with the requirements of this Rule; Law 219-2012, Puerto Rico Trusts Act, by a notarized public instrument...~~. The trustee must be an entity that has the authority to act as a trustee and whose trust operations are regulated and examined by a federal agency or by the ~~Environmental Quality Board~~EQB, in which the fund is established.
- B.** The wording of the trust agreement must be identical to the wording specified in Rule 873.B.1, and must be accompanied by a formal certification of acknowledgement as specified in Rule 873.B.2.
- C.** The trust fund, when established, must be funded for the full required amount of coverage, or funded for part of the required amount of coverage and used in combination with other mechanism(s) that provide the remaining required coverage.
- D.** If the value of the trust fund is greater than the required amount of coverage, the owner or operator may submit a written request to the Executive Director of the Board for release of the funds that may be in excess.
- E.** If other financial assurance as specified in this Part is substituted for all or part of the trust fund, the owner or operator may submit a written request to the Executive Director of the Board for release of the excess.
- F.** Within ~~sixty~~ (60) days after receiving a request from the owner or operator for release of funds as specified in paragraphs D or E of this Rule, the Executive Director of the Board will instruct the trustee to release to the owner ~~or~~and operator such funds as the Executive Director of the Board specifies in writing.

Rule 873 — ~~Standby, Stand by~~ Trust Fund

- A.** An owner or operator using any one of the mechanisms authorized by ~~Rule 868, 870, or 871~~this Part, must establish a ~~standby~~stand by trust fund when the authorized mechanism is acquired. The trustee of the ~~standby~~stand by trust fund must be an entity with the authority to act as a trustee and whose trust operations are regulated and examined by a federal agency or by the Board, in which the fund is established.
- B.** ~~1. The standby~~alternate trust agreement must be ~~worded as follows, except that instructions drafted in brackets are to be replaced~~accordance with the relevant ~~information~~laws and regulations of the ~~brackets deleted~~.

TRUST AGREEMENT

~~Trust Agreement, the "Agreement", entered into as of [date] by and between [name~~Commonwealth of the owner or operator], a Puerto Rico ~~insert "corporation",~~

~~“partnership”, “association”, “association”, or “proprietorship”], the “Grantor”, and [name of corporate trustee], [insert “Incorporated in Puerto Rico or “a national bank”], the “Trustee”.~~

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~~[Whereas, the Environmental Quality Board, “EQB”, an agency of the Government of Puerto Rico, has established certain regulations applicable, to the Grantor, requiring that an owner or operator of an underground storage tank shall provide assurance that funds will be available when needed for corrective action and third-party compensation for bodily injury and property damage caused by sudden and nonsudden accidental releases arising from the operation of the underground storage tanks. (This paragraph is only applicable to the standby trust agreement)];~~

~~[Whereas, the Grantor, acting through its duly authorized officers, has selected the Trustee to be trustee under this agreement, and the Trustee is willing to act as trustee;]~~

~~Now, therefore, the Grantor and the Trustee agree as follows:~~

~~**Section 1—Definitions:** As used in this Agreement:~~

~~a) **C.** The term “Grantor” means the owner or operator who enters into this Agreement and any successors or representatives of the Grantor.~~

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~~b) The term “Trustee” means the Trustee who enters into this Agreement and any successor Trustee.~~

~~**Section 2—Identification of the Financial Assurance Mechanism.** This Agreement pertains to the [identify the financial assurance mechanism, either a guarantee, surety bond, or letter of credit, form which the standby trust fund is established to receive payments (This paragraph is only applicable to the standby trust agreement)].~~

~~**Section 3—Establishment of Fund** The Grantor and the Trustee hereby establish a trust fund, the “Fund”, for the benefit of the Environmental Quality Board. The Grantor and the Trustee intend that no third party have access to the Fund except as herein provided. [The Fund is established initially as a standby to receive payments and shall not consist of any property]. Payments made by the provider of financial assurance pursuant to the Executive Director of the Board’s instructions are transferred to the Trustee and are referred to as the Fund, together with all earnings and profits thereon, less any payments or distributions made by the Trustee pursuant to this Agreement.~~

~~The Fund shall be held by the Trustee, IN TRUST, as hereinafter provided. The Trustee shall not be responsible nor shall undertake any responsibility for the amount or adequacy of, nor any duty to collect from the Grantor as provider of financial assurance, any payments necessary to discharge any liability of the Grantor established by the Board.~~

Section 4 — Payment for [~~“Corrective Action” and/or “Third-Party Liability Claims”~~]. The Trustee shall make payments from the Fund as [~~the Executive Director of the Board~~] shall direct, in writing, to provide for payment of the costs of [~~insert: “taking corrective action” and/or “compensating third parties for bodily injury and property damage caused by” either “sudden accidental releases” or “nonsudden accidental releases” or “accidental releases”~~] arising from operating the underground storage tanks covered by the financial assurance mechanism identified in this Agreement.

The Fund may not be drawn upon to cover any of the following:

- a) ~~Any obligation of [insert name of owner or operator] under a workers’ compensation, disability benefits or unemployment compensation law or other similar law;~~
- b) ~~Bodily injury to an employee of [insert owner or operator] arising from, and in the course of time, employed by [insert owner or operator];~~
- c) ~~Bodily injury or property damage arising from the ownership, maintenance, use, or entrustment to others of any aircraft, motor vehicle, or watercraft;~~
- d) ~~Damage to any property owned, rented, loaned to, in the care, custody, or control of, or occupied by [insert owner or operator] that is not the direct result of a release from a petroleum or petroleum derivative underground storage tank;~~
- e) ~~Bodily injury or property damage for which [insert owner or operator] is obligated to pay damages because it is assumed that this liability is included in a contract or agreement other than a contract or agreement entered into to meet the requirements of Rule 865.~~

The Trustee shall reimburse the Grantor, or other persons as specified by the Executive Director of the Board, from the Fund for corrective action expenditures and/or third party liability claims in such amounts as the Executive Director of the Board shall direct in writing. In addition, the Trustee shall refund to the Grantor such amounts that the Executive Director of the Board specifies in writing. Upon refund, such funds shall no longer constitute part of the Fund, as defined herein.

Section 5 — Payments Comprising the Fund — Payments made to the Trustee for the Fund shall consist of cash and securities acceptable to the Trustee.

Section 6 — Trustee Management — The Trustee shall invest and reinvest the principal and income of the Fund and keep the Fund invested as a single fund, without distinction between principal and income, in accordance with general investment policies and guidelines which the grantor may communicate in writing to the Trustee from time to time, subject, however, to the provisions of this Section. In investing, reinvesting, exchanging, selling, and managing the Fund, the Trustee

shall discharge his duties with respect to the trust fund solely in the interest of the beneficiaries and with the care, skill, prudence, and diligence like any prudent person would act in similar circumstances, acting in a like capacity and familiar with such matters that would be used in the management of a business of similar nature and goals; except that:

- a) ~~Securities or other obligations of the Grantor, or any other owner or operator of the tanks or any of their affiliates, as defined in the Investment Company Act of 1940, as amended, 15 USC 80a-2(a), should not be acquired or maintained, unless they are investments or other obligations of the Federal Government or Government of Puerto Rico~~
- b) ~~The Trustee is authorized to invest the Fund in time or request deposits of the Trustee, to the extend insured by a federal agency or by the Government of Puerto Rico.~~
- c) ~~The Trustee is authorized to hold cash, awaiting investment or distribution, uninvested, for a reasonable time without liability for the payment of interest thereon.~~

~~Section 7—Commingling and Investment~~—The Trustee is expressly authorized to use its discretion:

- a) ~~To transfer from time to time any or all of the assets of the Fund to any common, commingled, or collective trust fund created by the Trustee in which the Fund is eligible to participate, subject to all of the provisions hereof, to be commingled with the assets of other trusts participating herein; and~~

alternate

- b) ~~To purchase shares in any investment company registered under the investment Company Act of 1940, 15 U.S.C. 80-a-1 et seq., including one which may be created, managed, underwritten, or to which investment advice has been rendered or the shares of which have been sold by the Trustee. The Trustee may vote such shares in its discretion.~~

~~Section 8—Express Powers of Trustee~~—Without in any way limiting the powers and discretions conferred upon the Trustee by the other provisions of this Agreement or by law, the Trustee is expressly authorized and empowered:

- a) ~~To sell, exchange, convey, transfer, or otherwise dispose of any property held by it, through public or private sale. No person dealing with the Trustee shall be bound to see to the application of the purchase money or to inquire into the validity or expediency of any such sale or other disposition;~~

- b) ~~To make, execute, acknowledge, and deliver any and all documents of transfer and conveyance and any and all other instruments that may be necessary or appropriate to carry out the powers herein granted;~~

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- e) ~~To register any securities held in the Fund on its own name or in the name of another nominee and to hold any security in bearer form or in book entry, or to combine certificates representing such securities with certificates of the same issue held by the Trustee in other fiduciary capacities, or to deposit or arrange for the deposit of such securities in a qualified central depository even though, when so deposited, such securities may be merged and held in bulk in the name of the nominee of such depository with other securities deposited therein by another person, or to deposit or arrange for the deposit of any securities issued by the United States Government, or any agency or instrumentality thereof, with a Federal Reserve Bank, but the books and records of the Trustee shall at all times show that all such securities are part of the Fund;~~
- d) ~~To deposit any cash in the Fund in interest-bearing accounts maintained or savings certificates issued by the Trustee, in its separate corporate capacity, or in any other banking institution affiliated with the Trustee, to the extent insured by an agency of the federal government or by an agency of the Government of Puerto Rico; and~~
- e) ~~To compromise or otherwise adjust all claims in favor of or against the Fund.~~

~~**Section 9—Taxes and Expenses.** All taxes of any kind that may be assessed or levied against or with respect to the Fund and all brokerage commissions incurred by the Fund shall be paid from the Fund. All other expenses incurred by the Trustee in connection with the administration of this Trust, including fees for legal services rendered to the Trustee, the compensation of the Trustee to the extent not paid directly by the Grantor, and all other proper charges and disbursements of the Trustee shall be paid from the Fund.~~

~~**Section 10—Advice of Counsel.** The Trustee may from time to time consult with counsel, who may be advisor to the Grantor, with respect to any questions arising from the development of this Agreement or any action to be taken hereunder. The Trustee shall be fully protected, to the extent permitted by law, in acting upon the advice of Counsel.~~

~~**Section 11—Trustee Compensation.** The Trustee shall be entitled to reasonable compensation for services rendered as agreed upon in writing from time to time with the Grantor.~~

~~**Section 12—Successor Trustee**—The Trustee may resign or the Grantor may replace the Trustee, but such resignation or replacement shall not be effective until the Grantor has appointed a successor trustee and this successor accepts the appointment. The successor trustee shall have the same powers and duties as those conferred upon the Trustee hereunder. Upon the successor trustee's acceptance of the appointment, the Trustee shall assign, transfer, and pay to the successor trustee the funds and properties then constituting the Fund. If for any reason the Grantor cannot or does not act upon the resignation of the Trustee, the Trustee may apply to a court of competent jurisdiction for the appointment of a successor Trustee or~~

for instructions. The successor Trustee shall notify by certified mail 10 days before such change becomes effective, to the Grantor and the current Trustee, the date on which she/he will assume administration of the trust. Any expenses incurred by the Trustee as a result of any of the acts contemplated under this Section shall be paid as provided in Section 9.

Section 13 Instructions to the Trustee—All orders, request, and instructions by the Grantor to the Trustee shall be in writing, signed by such persons as are designated in the attached Schedule B or such other designees as the Grantor may designate by amendment to Schedule B. The Trustee shall be fully protected in acting without inquiry in accordance with the Grantor's orders, requests, and instructions. All orders, requests, and instructions from the Executive Director of the Board to the Trustee shall be in writing, signed by the Executive Director of the Environmental Quality Board and the Trustee shall be fully protected in carrying out such orders, requests, and instructions. The Trustee shall have the right to assume, in the absence of written notice to the contrary, that such performance in any event will not constitute a change or a termination of the authority of these persons to act on behalf of the Grantor or the Executive Director of the Environmental Quality Board. The Trustee shall not have the duty to act in the absence of such orders, requests, and instructions from the Grantor and/or the Executive Director of the Board, except as provided for herein.

Section 14 Amendment of Agreement—This Agreement may be amended by an instrument in writing executed by the Grantor and the Trustee, or by the Trustee and the Executive Director of the Board if the Grantor ceases to exist.

Section 15 Irrevocability and Termination—Subject to the right of the parties to amend this Agreement as provided in Section 14, this Trust shall be irrevocable and shall continue until terminated by the written determination of the Grantor and the Trustee, or by the Trustee and the Executive Director of the Board, if the Grantor ceases to exist. Upon termination of the Trust, all remaining trust property, less final trust administration expenses, shall be delivered to the Grantor.

Section 16 Immunity and Indemnification—The Trustee shall not incur in personal liability of any nature in connection with any act or omission, made in good faith, in the administration of this Trust, or in carrying out any instructions provided by the Grantor or the Executive Director of the Board issued in accordance with this Agreement. The Trustee shall be indemnified and saved harmless by the Grantor, from and against any personal liability to which the Trustee may be subjected by reason of any act or conduct in its official capacity, including all expenses reasonably incurred in its defense in the event the Grantor fails to provide such defense.

Section 17 Choice of Law—This Agreement shall be administered, understood, and enforced according to the laws of Puerto Rico, or the Puerto Rico Secretary of the Treasury in the case of National Association of Banks.

Section 18—Interpretation—As used in this Agreement, words in the singular include the plural and words in the plural include the singular. The descriptive headings for each section of this Agreement shall not affect the interpretation or the legal effectiveness of this Agreement.

In witness thereof, the parties have caused this Agreement to be executed by their respective officers duly authorized and their corporate seals (if applicable) to be hereunto affixed and attested as of the date first above written. The parties below certify that the wording of this Agreement is identical to the wording specified in Rule 879.B.1 as such regulation was constituted on the date indicated above.

[Signature of Grantor]
[Name of the Grantor]
[Title]

Attest:

[Signature of Trustee]
[Name of Trustee]
[Title]
[Seal]

Attest:

[Signature of Witness]
[Name of Witness]
[Title]
[Seal]

~~B.2. The standby trust agreement must be accompanied by a formal certification of acknowledgment similar to the following~~an official certificate of recognition drafted in accordance with the laws and regulations of the Commonwealth of Puerto Rico.

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D.

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Government of Puerto Rico

Municipality of _____

— On this [date], before me personally came [owner or operator] known to me, being duly sworn by me, deposed and said that she/he resides at [address], that she/he is [title] of [corporation], the corporation described in and which executed the above instrument; that she/he knows the seal of said corporation; that the seal affixed to such instrument in such corporate seal; that it was so affixed by order of the Board of Directors of said corporation; and that she/he signed her/his name thereto by like order.

[Signature of Public Notary]

[Name of Public Notary]

~~C.~~ The Executive Director of the ~~Board will instruct EQB shall order~~ the trustee to ~~refund/reimburse the balance of the standby trust fund to the balance alternative to financial security provider of financial assurance if the Executive Director/President determines that no it will incur additional costs for corrective action costs or third party liability or claims will occur not from third parties as a result of a release an escape mechanism covered by the financial assurance mechanism security for which the standby it was established trust fund as established alternative.~~

~~D.~~

~~E.~~ An owner ~~or~~and operator may establish a trust fund as the depository mechanism for all funds assured in compliance with this Rule.

Rule 874 — Local Government Bond Rating Test

A. ~~A general purpose local government owner or operator and/or local government serving as a guarantor may satisfy the requirements of Rule 865 by having a currently outstanding issue or issues of general obligation bonds of \$1 million or more, excluding refunded obligations, with a Moody's rating of Aaa, Aa, A, or Baa, or a Standard & Poor's rating of AAA, AA, A, or BBB. Where a local government has multiple outstanding issues, or where a local government's bonds are rated by both Moody's and Standard and Poor's, the lowest rating must be used to determine eligibility. Bonds that are backed by credit enhancement other than municipal bond insurance may not be considered in determining the amount of applicable bonds outstanding.~~

B. ~~A local government owner or operator or local government serving as a guarantor that is not a general purpose local government and does not have the legal authority to issue general obligation bonds may satisfy the requirements of Rule 865 by having a currently outstanding issue or issues of revenue bonds of \$1 million or more, excluding refunded issues, and by also having a Moody's rating of Aaa, Aa, A, or Baa, or a Standard & Poor's rating of AAA, AA, A, or BBB as the lowest rating for any rated revenue bond issued by the local government. Where bonds are rated by both Moody's and Standard & Poor's, the lower rating for each bond must be used to determine eligibility. Bonds that are backed by credit enhancement may not be considered in determining the amount of applicable bonds outstanding.~~

C. ~~The local government owner or operator and/or guarantor must maintain a copy of its bond rating published within the last 12 months by Moody's or Standard & Poor's.~~

D. ~~To demonstrate that it meets the local government bond rating test, the chief financial officer of a general purpose local government owner or operator and/or guarantor must sign a letter worded exactly as follows, except that the instructions~~

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in brackets are to be replaced by the relevant information and the brackets deleted:

Letter from Chief Financial Officer

I am the chief financial officer of [insert: name and address of local government owner or operator, or guarantor]. This letter is in support of the use of the bond rating test to demonstrate financial responsibility for [insert: “taking corrective action” and/or “compensating third parties for bodily injury and property damage”] caused by [insert: “sudden accidental releases” or “nonsudden accidental releases” or “accidental releases”] in the amount of at least [insert: dollar amount] per occurrence and [insert: dollar amount] annual aggregate arising from operating (an) underground storage tank(s).

Underground storage tanks at the following facilities are assured by this bond rating test: [List for each facility: the name and address of the facility where tanks are assured by the bond rating test].

The details of the issue date, maturity, outstanding amount, bond rating, and bond rating agency of all outstanding bond issues that are being used by [name of local government owner or operator, or guarantor] to demonstrate financial responsibility are as follows: [complete table]

Issue Date	Maturity Date	Outstanding Amount	Bond Rating	Rating Agency
			[Moody's or Standard or Poor's]	

The total outstanding obligation of [insert amount], excluding refunded bond issues, exceeds the minimum amount of \$1 million. All outstanding general obligation bonds issued by this government that have been rated by Moody's or Standard & Poor's are rated as at least investment grade (Moody's Baa or Standard & Poor's BBB) based on the most recent ratings published within the last 12 months. Neither rating service has provided notification within the last 12 months of downgrading of bond ratings below investment grade or of withdrawal of bond rating other than for repayment of outstanding bond issues.

I hereby certify that the wording of this letter is identical to the wording specified in Rule 874.D as such regulations were constituted on the date shown immediately below:

[Date] _____
[Signature] _____
[Name] _____
[Title] _____

E. _____ To demonstrate that it meets the local government bond rating test, the chief financial officer of local government owner or operator and/or guarantor other than

a general purpose government must sign a letter worded exactly as follows, except that the instructions in brackets are to be replaced by the relevant information and the brackets deleted:

Letter from Chief Financial Officer

I am the chief financial officer of [insert: name and address of local government owner or operator, or guarantor]. This letter is in support of the use of the bond rating test to demonstrate financial responsibility for [insert: "taking corrective action" and/or "compensating third parties for bodily injury and property damage"] caused by [insert: "sudden accidental releases" or "nonsudden accidental releases" or "accidental releases"] in the amount of at least [insert: dollar amount] per occurrence and [insert: dollar amount] annual aggregate arising from operating (an) underground storage tank(s). This local government is not organized to provide general governmental services and does not have the legal authority under state law or constitutional provisions to issue general obligation debt.

Underground storage tanks at the following facilities are assured by this bond rating test: [List for each facility: the name and address of the facility where tanks are assured by the bond rating test].

The details of the issue date, maturity, outstanding amount, bond rating, and bond rating agency of all outstanding revenue bond issues that are being used by [name of local government owner or operator, or guarantor] to demonstrate financial responsibility are as follows: [complete table]

Issue Date	Maturity Date	Outstanding Amount	Bond Rating	Rating Agency
			[Moody's or Standard or Poor's]	

The total outstanding obligation of [insert amount], excluding refunded bond issues, exceeds the minimum amount of \$1 million. All outstanding revenue bonds issued by this government that have been rated by Moody's or Standard & Poor's are rated as at least investment grade (Moody's Baa or Standard & Poor's BBB) based on the most recent ratings published within the last 12 months. The revenue bonds listed are not backed by third party credit enhancement or are insured by a municipal bond insurance company. Neither rating service has provided notification within the last 12 months of downgrading of bond ratings below investment grade or of withdrawal of bond rating other than for repayment of outstanding bond issues.

I hereby certify that the wording of this letter is identical to the wording specified in Rule 874.E as such regulations were constituted on the date shown immediately below:

[Date] _____
[Signature] _____
[Name] _____
[Title] _____

- F. ~~The Director of the Board may require reports of financial condition at any time from the local government owner or operator, and/or local government guarantor. If the Director finds, on the basis of such reports or other information, that the local government owner or operator, and/or guarantor, no longer meets the local government bond rating test requirements of Rule 874, the local government owner or operator must obtain alternative coverage within 30 days after notification of such a finding.~~
- G. ~~If a local government owner or operator using the bond rating test to provide financial assurance finds that it no longer meets the bond rating test requirements, the local government owner or operator must obtain alternative coverage within 150 days of the change in status.~~
- H. ~~If the local government owner or operator fails to obtain alternate assurance within 150 days of finding that it no longer meets the requirements of the bond rating test or within 30 days of notification by the Director of the Board that it no longer meets the requirements of the bond rating test, the owner or operator must notify the Director of such failure within 10 days.~~

Rule 875 — Local Government Financial Test

- A. ~~A local government owner or operator may satisfy the requirements of Rule 865 by passing the financial test specified in this Rule. To be eligible to use the financial test, the local government owner or operator must have the ability and authority to assess and levy taxes or to freely establish fees and charges. To pass the local government financial test, the owner or operator must meet the criteria of paragraphs B.2 and B.3 of this Rule based on year-end financial statements for the latest completed fiscal year.~~
- B. ~~1. The local government owner or operator must have the following information available, as shown in the year-end financial statements for the latest completed fiscal year:~~
- a) ~~Total revenues: Consists of the sum of general fund operating and non-operating revenues including net local taxes, licenses and permits, fines and forfeitures, revenues from use of money and property, charges for services, investment earnings, sales (property, publications, etc.), intergovernmental revenues (restricted and unrestricted), and total revenues from all other governmental funds including enterprise, debt service, capital projects, and special revenues, but excluding revenues to funds held in a trust or agency capacity. For purposes of this test, the calculation of total revenues shall exclude all transfers between funds under the direct control of the local~~

~~government using the financial test (interfund transfers), liquidation of investments, and issuance of debt.~~

- ~~b) Total expenditures: Consists of the sum of general fund operating and non-operating expenditures including public safety, public utilities, transportation, public works, environmental protection, cultural and recreational, community development, revenue sharing, employee benefits and compensation, office management, planning and zoning, capital projects, interest payments on debt, payments for retirement of debt principal, and total expenditures from all other governmental funds including enterprise, debt service, capital projects, and special revenues. For purposes of this test, the calculation of total expenditures shall exclude all transfers between funds under the direct control of the local government using the financial test (interfund transfers).~~
 - ~~e) Local revenues: Consists of total revenues (as defined in paragraph B.1.a of this Rule) minus the sum of all transfers from other governmental entities, including all monies received from Federal, state, or local government sources.~~
 - ~~d) Debt service: Consists of the sum of all interest and principal payments on all long-term credit obligations and all interest-bearing short-term credit obligations. Includes interest and principal payments on general obligation bonds, revenue bonds, notes, mortgages, judgments, and interest-bearing warrants. Excludes payments on non-interest-bearing short-term obligations, interfund obligations, amounts owed in a trust or agency capacity, and advances and contingent loans from other governments.~~
 - ~~e) Total funds: Consists of the sum of cash and investment securities from all funds, including general, enterprise, debt service, capital projects, and special revenue funds, but excluding employee retirement funds, at the end of the local government's financial reporting year. Includes Federal securities, Federal agency securities, state and local government securities, and other securities such as bonds, notes and mortgages. For purposes of this test, the calculation of total funds shall exclude agency funds, private trust funds, accounts receivable, value of real property, and other non-security assets.~~
 - ~~f) Population consists of the number of people in the area served by the local government.~~
- ~~2. The local government's year-end financial statements, if independently audited, cannot include an adverse auditor's opinion or a disclaimer of opinion. The local government cannot have outstanding issues of general obligation or revenue bonds that are rated as less than investment grade.~~
 - ~~3. The local government owner or operator must have a letter signed by the chief~~

financial officer worded as specified in paragraph C of this Rule.

- C. ~~To demonstrate that it meets the financial test under paragraph B of this Rule, the chief financial officer of the local government owner or operator, must sign, within 120 days of the close of each financial reporting year, as defined by the twelve-month period for which financial statements used to support the financial test are prepared, a letter worded exactly as follows, except that the instructions in brackets are to be replaced by the relevant information and the brackets deleted:~~

~~Letter From Chief Financial Officer~~

~~I am the chief financial officer of [insert: name and address of the owner or operator]. This letter is in support of the use of the local government financial test to demonstrate financial responsibility for [insert: "taking corrective action" and/or "compensating third parties for bodily injury and property damage"] caused by [insert: "sudden accidental releases" or "nonsudden accidental releases" or "accidental releases"] in the amount of at least [insert: dollar amount] per occurrence and [insert: dollar amount] annual aggregate arising from operating [an] underground storage tank[s].~~

~~Underground storage tanks at the following facilities are assured by this financial test [List for each facility: the name and address of the facility where tanks assured by this financial test are located. If separate mechanisms or combinations of mechanisms are being used to assure any of the tanks at this facility, list each tank assured by this financial test by the tank identification number provided in the notification submitted pursuant to Rule 809.]~~

~~This owner or operator has not received an adverse opinion, or a disclaimer of opinion from an independent auditor on its financial statements for the latest completed fiscal year. Any outstanding issues of general obligation or revenue bonds, if rated, have a Moody's rating of Aaa, Aa, A, or Baa or a Standard and Poor's rating of AAA, AA, A, or BBB; if rated by both firms, the bonds have a Moody's rating of Aaa, Aa, A, or Baa and a Standard and Poor's rating of AAA, AA, A, or BBB.~~

~~Worksheet for Municipal Financial Test~~

~~Part I: Basic Information~~

~~1. Total Revenues~~

~~a. Revenues (dollars) _____~~

~~Value of revenues excludes liquidation of investments and issuance of debt. Value includes all general fund operating and non-operating revenues, as well as all revenues from all other governmental funds including enterprise, debt service, capital projects, and special revenues, but excluding revenues to funds held in a trust or agency capacity.~~

~~b. Subtract interfund transfers (dollars) _____~~

~~c. Total Revenues (dollars) _____~~

2. Total Expenditures

a. Expenditures (dollars) _____

Value consists of the sum of general fund operating and non operating expenditures including interest payments on debt, payments for retirement of debt principal, and total expenditures from all other governmental funds including enterprise, debt service, capital projects, and special revenues.

b. Subtract interfund transfers (dollars) _____

c. Total Expenditures (dollars) _____

3. Local Revenues

a. Total Revenues (from 1c) (dollars) _____

b. Subtract total intergovernmental transfers (dollars) _____

c. Local Revenues (dollars) _____

4. Debt Service

a. Interest and fiscal charges (dollars) _____

b. Add debt retirement (dollars) _____

c. Total Debt Service (dollars) _____

5. Total Funds (Dollars) _____

(Sum of amounts held as cash and investment securities from all funds, excluding amounts held for employee retirement funds, agency funds, and trust funds)

6. Population (Persons) _____

Part II: Application of Test

7. Total Revenues to Population

a. Total Revenues (from 1c) _____

b. Population (from 6) _____

c. Divide 7a by 7b _____

d. Subtract 417 _____

e. Divide by 5,212 _____

f. Multiply by 4.095 _____

8. Total Expenses to Population

a. Total Expenses (from 2c) _____

b. Population (from 6) _____

c. Divide 8a by 8b _____

d. Subtract 524 _____

e. Divide by 5,401 _____

f. Multiply by 4.095 _____

9. Local Revenues to Total Revenues

a. Local Revenues (from 3c) _____

b. Total Revenues (from 1c) _____

c. Divide 9a by 9b _____

d. Subtract .695 _____

e. Divide by .205 _____

f. Multiply by 2.840 _____

10. Debt Service to Population

a. Debt Service (from 4c) _____

b. Population (from 6) _____

c. Divide 10a by 10b _____

d. Subtract 51 _____

e. Divide by 1,038 _____

f. Multiply by 1.866 _____

11. Debt Service to Total Revenues

a. Debt Service (from 4c) _____

b. Total Revenues (from 1c) _____

c. Divide 11a by 11b _____

d. Subtract .068 _____

e. Divide by .259 _____

f. Multiply by 3.533 _____

12. Total Revenues to Total Expenses

a. Total Revenues (from 1c) _____

b. Total Expenses (from 2c) _____

c. Divide 12a by 12b _____

d. Subtract .910 _____

e. Divide by .899 _____

f. Multiply by 3.458 _____

13. Funds Balance to Total Revenues

a. Total Funds (from 5) _____

b. Total Revenues (from 1c) _____

c. Divide 13a by 13b _____

d. Subtract .891 _____

e. Divide by 9.156 _____

f. Multiply by 3.270 _____

14. Funds Balance to Total Expenses

a. Total Funds (from 5) _____

b. Total Expenses (from 2c) _____

c. Divide 14a by 14b _____

d. Subtract .866 _____

e. Divide by 6.409 _____

f. Multiply by 3.270 _____

15. Total Funds to Population _____

a. Total Funds (from 5) _____

b. Population (from 6) _____

c. Divide 15a by 15b _____

d. Subtract 270 _____

e. Divide by 4,548 _____

f. Multiply by 1.866 _____

16. Add 7f + 8f + 9f + 10f + 11f + 12f + 13f + 14f + 15f + 4.937 _____

I hereby certify that the financial index shown on line 16 of the worksheet is greater than zero and that the wording of this letter is identical to the wording specified in Rule 875.C as such regulations were constituted on the date shown immediately below.

[Date] _____

[Signature] _____

[Name] _____

[Title] _____

~~D. If a local government owner or operator using the test to provide financial assurance finds that it no longer meets the requirements of the financial test based on the year-end financial statements, the owner or operator must obtain alternative coverage within 150 days of the end of the year for which financial statements have been prepared.~~

~~E. The Director of the Board may require reports of financial condition at any time from the local government owner or operator. If the Director finds, on the basis of such reports or other information, that the local government owner or operator no longer meets the financial test requirements of Rule 875.B and 875.C, the owner or operator must obtain alternate coverage within 30 days after notification of such a finding.~~

~~F. If the local government owner or operator fails to obtain alternate assurance within 150 days of finding that it no longer meets the requirements of the financial test based on the year-end financial statements or within 30 days of notification by the Director of the Board that it no longer meets the requirements of the financial test, the owner or operator must notify the Director of such failure within 10 days.~~

~~Rule 876 Local Government Guarantee~~

~~A. A local government owner or operator may satisfy the requirements of Rule 865 by obtaining a guarantee that conforms to the requirements of this Rule. The guarantor must be either the state in which the local government owner or operator is located or a local government having a "substantial governmental relationship" with the owner and operator and issuing the guarantee as an act incident to that relationship. A local government acting as the guarantor must:~~

- ~~1. Demonstrate that it meets the bond rating test requirement of Rule 865 and deliver a copy of the chief financial officer's letter as contained in Rule 874.D and Rule 874.E to the local government owner or operator; or~~
- ~~2. Demonstrate that it meets the worksheet test requirements of Rule 875 and deliver a copy of the chief financial officer's letter as contained in Rule 875.C to the local government owner or operator; or~~

~~3. Demonstrate that it meets the local government fund requirements of Rule 877.A, Rule 877.B, or Rule 877.C and deliver a copy of the chief financial officer's letter as contained in Rule 877 to the local government owner or operator.~~

~~B. If the local government guarantor is unable to demonstrate financial assurance under any of Rule 874, Rule 875, Rule 877.A, Rule 877.B, or Rule 877.C, at the end of the financial reporting year, the guarantor shall send by certified mail, before cancellation or non-renewal of the guarantee, notice to the owner or operator. The guarantee will terminate no less than 120 days after the date the owner or operator receives the notification, as evidenced by the return receipt. The owner or operator must obtain alternative coverage as specified in Rule 884.C.~~

~~C. The guarantee agreement must be worded as specified in paragraph D or E of this Rule, depending on which of the following alternative guarantee arrangements is selected:~~

~~1. If, in the default or incapacity of the owner or operator, the guarantor guarantees to fund a standby trust as directed by the Director of the Board, the guarantee shall be worded as specified in paragraph D of this Rule.~~

~~2. If, in the default or incapacity of the owner or operator, the guarantor guarantees to make payments as directed by the Director of the Board for taking corrective action or compensating third parties for bodily injury and property damage, the guarantee shall be worded as specified in paragraph E of this Rule.~~

~~D. If the guarantor is a state, the local government guarantee with standby trust must be worded exactly as follows, except that instructions in brackets are to be replaced with relevant information and the brackets deleted:~~

~~Local Government Guarantee With Standby Trust Made by a State~~

~~Guarantee made this [date] by [name of state], herein referred to as guarantor, to [the Board] and to any and all third parties, and obliges, on behalf of [local government owner or operator].~~

~~Recitals~~

~~1. Guarantor is a state.~~

~~2. [Local government owner or operator] owns or operates the following underground storage tank(s) covered by this guarantee: [List the number of tanks at each facility and the name(s) and address(es) of the facility(ies) where the tanks are located. If more than one instrument is used to assure different tanks at any one facility, for each tank covered by this instrument, list the tank identification number provided in the notification submitted pursuant to this Regulation, and the name and address of the facility.] This guarantee satisfies Part IX financial responsibility requirements for assuring funding for [insert: "taking corrective action" and/or "compensating third parties for bodily injury~~

~~and property damage caused by” either “sudden accidental releases” or “nonsudden accidental releases” or “accidental releases”; if coverage is different for different tanks or locations, indicate the type of coverage applicable to each tank or location] arising from operating the above identified underground storage tank(s) in the amount of [insert dollar amount] per occurrence and [insert dollar amount] annual aggregate.~~

~~3. Guarantor guarantees to [Board] and to any and all third parties that:~~

~~In the event that [local government owner or operator] fails to provide alternative coverage within 60 days after receipt of a notice of cancellation of this guarantee and the [Director of the Board] has determined or suspects that a release has occurred at an underground storage tank covered by this guarantee, the guarantor, upon instructions from the [Director] shall fund a standby trust fund in accordance with the provisions of Rule 882, in an amount not to exceed the coverage limits specified above.~~

~~In the event that the [Director] determines that [local government owner or operator] has failed to perform corrective action for releases arising out of the operation of the above identified tank(s) in accordance with Part VI, the guarantor upon written instructions from the [Director] shall fund a standby trust fund in accordance with the provisions of Rule 882, in an amount not to exceed the coverage limits specified above.~~

~~If [owner or operator] fails to satisfy a judgment or award based on a determination of liability for bodily injury or property damage to third parties caused by [“sudden” and/or “nonsudden”] accidental releases arising from the operation of the above identified tank(s), or fails to pay an amount agreed to in settlement of a claim arising from or alleged to arise from such injury or damage, the guarantor, upon written instructions from the [Director], shall fund a standby trust in accordance with the provisions of Rule 882 to satisfy such judgment(s), award(s), or settlement agreement(s) up to the limits of coverage specified above.~~

~~4. Guarantor agrees to notify [owner or operator] by certified mail of a voluntary or involuntary proceeding under Title 11 (Bankruptcy), U.S. Code naming guarantor as debtor, within 10 days after commencement of the proceeding.~~

~~5. Guarantor agrees to remain bound under this guarantee notwithstanding any modification or alteration of any obligation of [owner or operator] pursuant to this Regulation.~~

~~6. Guarantor agrees to remain bound under this guarantee for so long as [local government owner or operator] must comply with the applicable financial responsibility requirements of Part IX for the above identified tank(s), except that guarantor may cancel this guarantee by sending notice by certified mail to [owner or operator], such cancellation to become effective no earlier than 120~~

days after receipt of such notice by [owner or operator], as evidenced by the return receipt.

7. The guarantor's obligation does not apply to any of the following:

- a) ~~Any obligation of [local government owner or operator] under a workers' compensation, disability benefits, or unemployment compensation law or other similar law;~~
- b) ~~Bodily injury to an employee of [insert: local government owner or operator] arising from, and in the course of, employment by [insert: local government owner or operator];~~
- c) ~~Bodily injury or property damage arising from the ownership, maintenance, use, or entrustment to others of any aircraft, motor vehicle, or watercraft;~~
- d) ~~Property damage to any property owned, rented, loaned to, in the care, custody, or control of, or occupied by [insert: local government owner or operator] that is not the direct result of a release from a petroleum underground storage tank;~~
- e) ~~Bodily damage or property damage for which [insert owner or operator] is obligated to pay damages by reason of the assumption of liability in a contract or agreement other than a contract or agreement entered into to meet the requirements of Rule 865.~~

8. ~~Guarantor expressly waives notice of acceptance of this guarantee by [the Board], by any or all third parties, or by [local government owner or operator];~~

I hereby certify that the wording of this guarantee is identical to the wording specified in Rule 876.D as such regulations were constituted on the effective date shown immediately below:

Effective date: _____

[Name of guarantor]

[Authorized signature for guarantor]

[Name of person signing]

[Title of person signing]

Signature of witness or notary:

If the guarantor is a local government, the local government guarantee with standby trust must be worded exactly as follows, except that instructions in brackets are to be replaced with relevant information and the brackets deleted:

Local Government Guarantee With Standby Trust Made by a Local Government

Guarantee made this [date] by [name of guaranteeing entity], a local government organized under the laws of [name of state], herein referred to as guarantor, to [the Board] and to any and all third parties, and obliges, on behalf of [local government owner or operator].

Recitals

1. ~~Guarantor meets or exceeds [select one: the local government bond rating test requirements of Rule 874, the local government financial test requirements of Rule 875, or the local government fund under Rule 877.A, Rule 877.B, or Rule 877.C.~~
2. ~~[Local government owner or operator] owns or operates the following underground storage tank(s) covered by this guarantee: [List the number of tanks at each facility and the name(s) and address(es) of the facility(ies) where the tanks are located. If more than one instrument is used to assure different tanks at any one facility, for each tank covered by this instrument, list the tank identification number provided in the notification submitted pursuant to this Regulation or the corresponding state requirement, and the name and address of the facility.] This guarantee satisfies Part IX requirements for assuring funding for [insert: "taking corrective action" and/or "compensating third parties for bodily injury and property damage caused by" either "sudden accidental Releases" or "nonsudden accidental releases" or "accidental Releases"; if coverage is different for different tanks or locations, indicate the type of coverage applicable to each tank or location] arising from operating the above identified underground storage tank(s) in the amount of [insert dollar amount] per occurrence and [insert: dollar amount] annual aggregate.~~
3. ~~Incident to our substantial governmental relationship with [local government owner or operator], guarantor guarantees to [Board] and to any and all third parties that:~~

~~In the event that [local government owner or operator] fails to provide alternative coverage within 60 days after receipt of a notice of cancellation of this guarantee and the [Director of the Board] has determined or suspects that a release has occurred at an underground storage tank covered by this guarantee, the guarantor, upon instructions from the [Director] shall fund a standby trust fund in accordance with the provisions of Rule 882, in an amount not to exceed the coverage limits specified above.~~

~~In the event that the [Director] determines that [local government owner or operator] has failed to perform corrective action for releases arising out of the operation of the above identified tank(s) in accordance with Part VI, the guarantor upon written instructions from the [Director] shall fund a standby trust fund in accordance with the provisions of Rule 882, in an amount not to exceed the coverage limits specified above.~~

~~If [owner or operator] fails to satisfy a judgment or award based on a determination of liability for bodily injury or property damage to third parties~~

caused by [~~“sudden” and/or “nonsudden”~~] accidental releases arising from the operation of the above identified tank(s), or fails to pay an amount agreed to in settlement of a claim arising from or alleged to arise from such injury or damage, the guarantor, upon written instructions from the [Director], shall fund a standby trust in accordance with the provisions of Rule 882 to satisfy such judgment(s), award(s), or settlement agreement(s) up to the limits of coverage specified above.

- ~~4. Guarantor agrees that, if at the end of any fiscal year before cancellation of this guarantee, the guarantor fails to meet or exceed the requirements of the financial responsibility mechanism specified in paragraph (1), guarantor shall send within 120 days of such failure, by certified mail, notice to [local government owner or operator], as evidenced by the return receipt.~~
- ~~5. Guarantor agrees to notify [owner or operator] by certified mail of a voluntary or involuntary proceeding under Title 11 (Bankruptcy), U.S. Code naming guarantor as debtor, within 10 days after commencement of the proceeding.~~
- ~~6. Guarantor agrees to remain bound under this guarantee notwithstanding any modification or alteration of any obligation of [owner or operator] pursuant to This Regulation.~~
- ~~7. Guarantor agrees to remain bound under this guarantee for so long as [local government owner or operator] must comply with the applicable financial responsibility requirements of Part IX for the above identified tank(s), except that guarantor may cancel this guarantee by sending notice by certified mail to [owner or operator], such cancellation to become effective no earlier than 120 days after receipt of such notice by [owner or operator], as evidenced by the return receipt.~~
- ~~8. The guarantor's obligation does not apply to any of the following:~~
 - ~~a) Any obligation of [local government owner or operator] under a workers' compensation, disability benefits, or unemployment compensation law or other similar law;~~
 - ~~b) Bodily injury to an employee of [insert: local government owner or operator] arising from, and in the course of, employment by [insert: local government owner or operator];~~
 - ~~c) Bodily injury or property damage arising from the ownership, maintenance, use, or entrustment to others of any aircraft, motor vehicle, or watercraft;~~
 - ~~d) Property damage to any property owned, rented, loaned to, in the care, custody, or control of, or occupied by [insert: local government owner or operator] that is not the direct result of a release from a petroleum underground storage tank;~~

e) ~~Bodily damage or property damage for which [insert: owner or operator] is obligated to pay damages by reason of the assumption of liability in a contract or agreement other than a contract or agreement entered into to meet the requirements of Rule 865.~~

9. ~~Guarantor expressly waives notice of acceptance of this guarantee by [the Board], by any or all third parties, or by [local government owner or operator].~~

I hereby certify that the wording of this guarantee is identical to the wording specified in Rule 876.D as such regulations were constituted on the effective date shown immediately below.

Effective

date: _____

[Name of guarantor]

[Authorized signature for guarantor]

[Name of person signing]

[Title of person signing]

Signature of witness or notary:

E. ~~If the guarantor is a state, the local government guarantee without standby trust must be worded exactly as follows, except that instructions in brackets are to be replaced with relevant information and the brackets deleted:~~

~~Local Government Guarantee Without Standby Trust Made by a State~~

~~Guarantee made this [date] by [name of state], herein referred to as guarantor, to [the Board] and to any and all third parties, and obliges, on behalf of [local government owner or operator].~~

~~Recitals~~

~~1. Guarantor is a state.~~

~~2. [Local government owner or operator] owns or operates the following underground storage tank(s) covered by this guarantee: [List the number of tanks at each facility and the name(s) and address(es) of the facility(ies) where the tanks are located. If more than one instrument is used to assure different tanks at any one facility, for each tank covered by this instrument, list the tank identification number provided in the notification submitted pursuant to this Regulation or the corresponding state requirement, and the name and address of the facility.] This guarantee satisfies Part IX requirements for assuring funding for [insert: "taking corrective action" and/or "compensating third parties for bodily injury and property damage caused by" either "sudden accidental releases" or "nonsudden accidental releases" or "accidental releases"; if coverage is different for different tanks or locations, indicate the type of coverage applicable to each tank or location] arising from operating the above-identified underground storage tank(s) in the amount of [insert: dollar amount] per occurrence and [insert: dollar amount] annual aggregate.~~

~~3. Guarantor guarantees to [Board] and to any and all third parties and obliges that:~~

~~In the event that [local government owner or operator] fails to provide alternative coverage within 60 days after receipt of a notice of cancellation of this guarantee and the [Director of the Board] has determined or suspects that a release has occurred at an underground storage tank covered by this guarantee, the guarantor, upon written instructions from the [Director] shall make funds available to pay for corrective actions and compensate third parties for bodily injury and property damage in an amount not to exceed the coverage limits specified above.~~

~~In the event that the [Director] determines that [local government owner or operator] has failed to perform corrective action for releases arising out of the operation of the above identified tank(s) in accordance with Part VI, the guarantor upon written instructions from the [Director] shall make funds available to pay for corrective actions in an amount not to exceed the coverage limits specified above.~~

~~If [owner or operator] fails to satisfy a judgment or award based on a determination of liability for bodily injury or property damage to third parties caused by ["sudden" and/or "nonsudden"] accidental releases arising from the operation of the above identified tank(s), or fails to pay an amount agreed to in settlement of a claim arising from or alleged to arise from such injury or damage, the guarantor, upon written instructions from the [Director], shall make funds available to compensate third parties for bodily injury and property damage in an amount not to exceed the coverage limits specified above.~~

~~4. Guarantor agrees to notify [owner or operator] by certified mail of a voluntary or involuntary proceeding under Title 11 (Bankruptcy), U.S. Code naming guarantor as debtor, within 10 days after commencement of the proceeding.~~

~~5. Guarantor agrees to remain bound under this guarantee notwithstanding any modification or alteration of any obligation of [owner or operator] pursuant to this Regulation.~~

~~6. Guarantor agrees to remain bound under this guarantee for so long as [local government owner or operator] must comply with the applicable financial responsibility requirements of Part IX for the above identified tank(s), except that guarantor may cancel this guarantee by sending notice by certified mail to [owner or operator], such cancellation to become effective no earlier than 120 days after receipt of such notice by [owner or operator], as evidenced by the return receipt. If notified of a probable release, the guarantor agrees to remain bound to the terms of this guarantee for all charges arising from the release, up to the coverage limits specified above, notwithstanding the cancellation of the guarantee with respect to future releases.~~

~~7. The guarantor's obligation does not apply to any of the following:~~

- a) ~~Any obligation of [local government owner or operator] under a workers' compensation disability benefits, or unemployment compensation law or other similar law;~~
- b) ~~Bodily injury to an employee of [insert local government owner or operator] arising from, and in the course of, employment by [insert: local government owner or operator];~~
- c) ~~Bodily injury or property damage arising from the ownership, maintenance, use, or entrustment to others of any aircraft, motor vehicle, or watercraft;~~
- d) ~~Property damage to any property owned, rented, loaned to, in the care, custody, or control of, or occupied by [insert: local government owner or operator] that is not the direct result of a release from a petroleum underground storage tank;~~
- e) ~~Bodily damage or property damage for which [insert: owner or operator] is obligated to pay damages by reason of the assumption of liability in a contract or agreement other than a contract or agreement entered into to meet the requirements of Rule 865.~~

8. ~~Guarantor expressly waives notice of acceptance of this guarantee by [the Board], by any or all third parties, or by [local government owner or operator].~~

I hereby certify that the wording of this guarantee is identical to the wording specified in Rule 876.E as such regulations were constituted on the effective date shown immediately below:

Effective date: _____
 [Name of guarantor]
 [Authorized signature for guarantor]
 [Name of person signing]
 [Title of person signing]
 Signature of witness or notary:

If the guarantor is a local government, the local government guarantee without standby trust must be worded exactly as follows, except that instructions in brackets are to be replaced with relevant information and the brackets deleted:

Local Government Guarantee Without Standby Trust Made by a Local Government

Guarantee made this [date] by [name of guaranteeing entity], a local government organized under the laws of [name of state], herein referred to as guarantor, to [the Board] and to any and all third parties, and obliges, on behalf of [local government owner or operator].

Recitals

~~1. Guarantor meets or exceeds [select one: the local government bond rating test requirements of Rule 874, the local government financial test requirements of Rule 875, the local government fund under Rule 877.A, Rule 877.B, or Rule 877.C.~~

~~2. [Local government owner or operator] owns or operates the following underground storage tank(s) covered by this guarantee: [List the number of tanks at each facility and the name(s) and address(es) of the facility(ies) where the tanks are located. If more than one instrument is used to assure different tanks at any one facility, for each tank covered by this instrument, list the tank identification number provided in the notification submitted pursuant to this Regulation or the corresponding state requirement, and the name and address of the facility.] This guarantee satisfies Part IX requirements for assuring funding for [insert: "taking corrective action" and/or "compensating third parties for bodily injury and property damage caused by" either "sudden accidental releases" or "nonsudden accidental releases" or "accidental releases"; if coverage is different for different tanks or locations, indicate the type of coverage applicable to each tank or location] arising from operating the above identified underground storage tank(s) in the amount of [insert: dollar amount] per occurrence and [insert: dollar amount] annual aggregate.~~

~~3. Incident to our substantial governmental relationship with [local government owner or operator], guarantor guarantees to [Board] and to any and all third parties and obliges that:~~

~~In the event that [local government owner or operator] fails to provide alternative coverage within 60 days after receipt of a notice of cancellation of this guarantee and the [Director of the Board] has determined or suspects that a release has occurred at an underground storage tank covered by this guarantee, the guarantor, upon written instructions from the [Director] shall make funds available to pay for corrective actions and compensate third parties for bodily injury and property damage in an amount not to exceed the coverage limits specified above.~~

~~In the event that the [Director] determines that [local government owner or operator] has failed to perform corrective action for releases arising out of the operation of the above identified tank(s) in accordance with Part VI, the guarantor upon written instructions from the [Director] shall make funds available to pay for corrective actions in an amount not to exceed the coverage limits specified above.~~

~~If [owner or operator] fails to satisfy a judgment or award based on a determination of liability for bodily injury or property damage to third parties caused by ["sudden" and/or "nonsudden"] accidental releases arising from the operation of the above identified tank(s), or fails to pay an amount agreed to in settlement of a claim arising from or alleged to arise from such injury or damage, the guarantor, upon written instructions from the [Director], shall~~

~~make funds available to compensate third parties for bodily injury and property damage in an amount not to exceed the coverage limits specified above.~~

- ~~4. Guarantor agrees that if at the end of any fiscal year before cancellation of this guarantee, the guarantor fails to meet or exceed the requirements of the financial responsibility mechanism specified in paragraph (1), guarantor shall send within 120 days of such failure, by certified mail, notice to [local government owner or operator], as evidenced by the return receipt.~~
- ~~5. Guarantor agrees to notify [owner or operator] by certified mail of a voluntary or involuntary proceeding under Title 11 (Bankruptcy), U.S. Code naming guarantor as debtor, within 10 days after commencement of the proceeding.~~
- ~~6. Guarantor agrees to remain bound under this guarantee notwithstanding any modification or alteration of any obligation of [owner or operator] pursuant to this Regulation.~~
- ~~7. Guarantor agrees to remain bound under this guarantee for so long as [local government owner or operator] must comply with the applicable financial responsibility requirements of Part IX for the above identified tank(s), except that guarantor may cancel this guarantee by sending notice by certified mail to [owner or operator], such cancellation to become effective no earlier than 120 days after receipt of such notice by [owner or operator], as evidenced by the return receipt. If notified of a probable release, the guarantor agrees to remain bound to the terms of this guarantee for all charges arising from the release, up to the coverage limits specified above, notwithstanding the cancellation of the guarantee with respect to future releases.~~
- ~~8. The guarantor's obligation does not apply to any of the following:~~
 - ~~a) Any obligation of [local government owner or operator] under a workers' compensation disability benefits, or unemployment compensation law or other similar law;~~
 - ~~b) Bodily injury to an employee of [insert: local government owner or operator] arising from, and in the course of, employment by [insert: local government owner or operator];~~
 - ~~c) Bodily injury or property damage arising from the ownership, maintenance, use, or entrustment to others of any aircraft, motor vehicle, or watercraft;~~
 - ~~d) Property damage to any property owned, rented, loaned to, in the care, custody, or control of, or occupied by [insert: local government owner or operator] that is not the direct result of a release from a petroleum underground storage tank;~~
 - ~~e) Bodily damage or property damage for which [insert: owner or operator] is~~

~~obligated to pay damages by reason of the assumption of liability in a contract or agreement other than a contract or agreement entered into to meet the requirements of Rule 865.~~

~~9. Guarantor expressly waives notice of acceptance of this guarantee by [the Board], by any or all third parties, or by [local government owner or operator];~~

~~I hereby certify that the wording of this guarantee is identical to the wording specified in Rule 876.E as such regulations were constituted on the effective date shown immediately below:~~

~~Effective date: _____~~

~~[Name of guarantor]~~

~~[Authorized signature for guarantor]~~

~~[Name of person signing]~~

~~[Title of person signing]~~

~~Signature of witness or notary:~~

Rule 877 — Local Government Fund

~~A local government owner or operator may satisfy the requirements of Rule 865 by establishing a dedicated fund account that conforms to the requirements of this Rule. Except as specified in paragraph (b), a dedicated fund may not be commingled with other funds or otherwise used in normal operations. A dedicated fund will be considered eligible if it meets one of the following requirements:~~

- ~~A. — The fund is dedicated by state constitutional provision, or local government statute, charter, ordinance, or order to pay for taking corrective action and for compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of petroleum underground storage tanks and is funded for the full amount of coverage required under Rule 865, or funded for part of the required amount of coverage and used in combination with other mechanism(s) that provide the remaining coverage; or~~
- ~~B. — The fund is dedicated by state constitutional provision, or local government statute, charter, ordinance, or order as a contingency fund for general emergencies, including taking corrective action and compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of petroleum underground storage tanks, and is funded for five times the full amount of coverage required under Rule 865, or funded for part of the required amount of coverage and used in combination with other mechanism(s) that provide the remaining coverage. If the fund is funded for less than five times the amount of coverage required under Rule 865, the amount of financial responsibility demonstrated by the fund may not exceed one fifth the amount in the fund; or~~
- ~~C. — The fund is dedicated by state constitutional provision, or local government statute, charter, ordinance or order to pay for taking corrective action and for compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of petroleum underground storage tanks. A payment is~~

~~made to the fund once every year for seven years until the fund is fully funded. This seven year period is hereafter referred to as the “pay in period.” The amount of each payment must be determined by this formula:~~

$$\frac{TF - CF}{Y}$$

~~Where TF is the total required financial assurance for the owner or operator, CF is the current amount in the fund, and Y is the number of years remaining in the pay in period, and;~~

- ~~1. The local government owner or operator has available bonding authority, approved through voter referendum (if such approval is necessary prior to the issuance of bonds), for an amount equal to the difference between the required amount of coverage and the amount held in the dedicated fund. This bonding authority shall be available for taking corrective action and for compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of petroleum underground storage tanks, or~~
- ~~2. The local government owner or operator has a letter signed by the appropriate state attorney general stating that the use of the bonding authority will not increase the local government's debt beyond the legal debt ceilings established by the relevant state laws. The letter must also state that prior voter approval is not necessary before use of the bonding authority.~~

~~D. — To demonstrate that it meets the requirements of the local government fund, the chief financial officer of the local government owner or operator and/or guarantor must sign a letter worded exactly as follows, except that the instructions in brackets are to be replaced by the relevant information and the brackets deleted:~~

Letter from Chief Financial Officer

~~I am the chief financial officer of [insert: name and address of local government owner or operator, or guarantor]. This letter is in support of the use of the local government fund mechanism to demonstrate financial responsibility for [insert: “taking corrective action” and/or “compensating third parties for bodily injury and property damage”] caused by [insert: “sudden accidental releases” or “nonsudden accidental releases” or “accidental releases”] in the amount of at least [insert: dollar amount] per occurrence and [insert: dollar amount] annual aggregate arising from operating (an) underground storage tank(s).~~

~~Underground storage tanks at the following facilities are assured by this local government fund mechanism: [List for each facility: the name and address of the facility where tanks are assured by the local government fund].~~

~~[Insert: “The local government fund is funded for the full amount of coverage required under Rule 865, or funded for part of the required amount of coverage and used in combination with other mechanism(s) that provide the remaining coverage.”]~~

or "The local government fund is funded for five times the full amount of coverage required under Rule 865, or funded for part of the required amount of coverage and used in combination with other mechanisms(s) that provide the remaining coverage," or "A payment is made to the fund once every year for seven years until the fund is fully funded and [name of local government owner or operator] has available bonding authority, approved through voter referendum, of an amount equal to the difference between the required amount of coverage and the amount held in the dedicated fund" or "A payment is made to the fund once every year for seven years until the fund is fully funded and I have attached a letter signed by the State Attorney General stating that (1) the use of the bonding authority will not increase the local government's debt beyond the legal debt ceilings established by the relevant state laws and (2) that prior voter approval is not necessary before use of the bonding authority".

The details of the local government fund are as follows:

Amount in Fund (market value of fund at close of last fiscal year): _____

[If fund balance is incrementally funded as specified in Rule 877.C, insert:

Amount added to fund in the most recently completed fiscal year: _____

Number of years remaining in the pay-in period: _____]

A copy of the state constitutional provision, or local government statute, charter, ordinance or order dedicating the fund is attached.

I hereby certify that the wording of this letter is identical to the wording specified in Rule 877.D as such regulations were constituted on the date shown immediately below:

[Date]

[Signature]

[Name]

[Title]

Rule 878 — Substitution of Financial Assurance Mechanisms by Owner or Operator

A. An owner ~~or~~and operator may substitute any alternate financial assurance mechanisms as specified in this Part, provided that at all times he maintains an effective financial assurance mechanism or combination of mechanisms that satisfies the requirements of Rule 865.

B. After obtaining alternate financial assurance as specified in this Part, an owner or operator may cancel a financial assurance mechanism by providing notice to the provider of financial assurance ~~and the Board.~~

Rule 879 — 875. Cancellation or Nonrenewal by Provider of Financial Assurance

A. Except as otherwise provided, a provider of financial assurance may cancel or fail to renew an assurance mechanism by sending a notice of termination by certified mail to the owner ~~or~~and operator.

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1. ~~1.~~ Termination of a guarantee, a surety bond, or a letter of credit may not occur until one hundred twenty (120) days after the date on which the owner ~~or~~ and operator receives the notice of termination, as evidenced by the return receipt.

2. ~~2.~~ Termination of insurance, or risk retention group coverage, except for non- payment or misrepresentation by the insured, or state-funded assurance, shall not occur until ~~60~~sixty (60) days after the date on which the owner and operator receives the notice of termination, as evidenced by the return receipt. Termination for non-payment of premium or misrepresentation by insured shall not occur until a minimum of ten (10) days after the date on which the owner or operator receives the notice of termination, as evidenced by the return receipt.

~~Termination for non payment of premium or misrepresentation by insured shall not occur until a minimum of ten (10) days after the date on which the owner or operator receives the notice of termination, as evidenced by the return receipt.~~

B. If a provider of financial responsibility cancels or fails to renew for reasons other than incapacity of the provider as specified in this Rule 884, the owner or operator must obtain alternate coverage as specified in this Rule within sixty (60) days after receipt of the notice of termination. ~~If the owner or operator fails to obtain alternate coverage within 60 days after receipt of the notice of termination, the owner or operator must notify the Executive Director of the Board of such failure and submit:~~

~~1. The name and address of the provider of financial assurance;~~

~~2. The effective date of termination; and~~

~~3. The evidence of the financial assurance mechanism subject to the termination maintained in accordance with Rule 881.B.~~

Rule 880 — 876. Reporting by Owner ~~or~~ and Operator

A. ~~The owner or operator must submit the appropriate forms listed in Rule 881.B documenting current evidence of financial responsibility to the Executive Director of the Board.~~

~~1.~~ Within thirty (30) days after the owner ~~or~~ and operator identifies a release from an underground storage tank/UST System, which is required to be reported under Rule 840 or Rule 843 of this Regulation.

~~2.~~

1. If the owner ~~or~~ and operator fails to obtain alternate coverage as required under this Part, within thirty (30) days after the owner or operator receives notice of:

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~~a. a)~~ Bankruptcy proceedings in accordance with Title 11 of the U.S. Code have been initiated, either voluntarily or involuntarily, identifying the financial assurance provider as the debtor.

~~b. b)~~ Suspension or revocation of the authority of a financial assurance provider to issue a financial assurance mechanism.

~~c. e)~~ Failure of a surety to comply with the requirements of financial proof.

~~d. d)~~ Other incapacity of the provider of financial assurance; or

~~3. As required under Rule 867.G and Rule 879.B.~~

~~B. An owner or operator must certify compliance with the financial responsibility requirements of this Regulation as specified in the Notification Form provided in Appendix I, to be used when notifying the Board of the installation of a new underground storage tank in accordance with Rule 809.~~

~~C~~

~~B.~~ The Executive Director of the Board may require at any time, that an owner ~~or~~and operator provide evidence of financial responsibility or any other information relevant to this Part, as described in ~~Rule 881~~this Part.

~~Rule 881~~ — 877. Recordkeeping

~~A.~~ Owners ~~or~~and operators must maintain evidence of all financial assurance mechanisms used to demonstrate financial responsibility under this Part for all underground storage tanks subject to this Regulation, until released from the requirements of this Part under Rule ~~883~~879. The owner ~~or~~and operator must maintain such evidence at the ~~underground storage tank~~UST System site or the place of business of the owner or operator. ~~Records maintained off site must be made available upon request of the Board and/or EPA.~~

~~B.~~ An owner ~~or~~and operator must maintain the following types of evidence of financial responsibility:

- ~~1.~~ An owner ~~or~~and operator using an assurance mechanism specified in ~~Rules 867 — 871 or Rule 872~~this Part must maintain a copy of the instrument worded as specified.
- ~~2.~~ An owner ~~or~~and operator using a financial test or guarantee must maintain a copy of the chief financial officer's letter based on year-end financial statements for the most recent completed financial reporting year. Such evidence must be filed no later than ~~one hundred twenty~~ (120) days after the close of the financial reporting year.
- ~~3.~~ An owner ~~or~~and operator using a guarantee, surety bond, or letter of credit must maintain a copy of the signed ~~standby~~stand by trust fund agreement and copies of any amendments to the agreement.

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4. An owner ~~or~~and operator using an insurance policy or risk retention group coverage must maintain a copy of the signed insurance policy or risk retention group coverage policy, with the endorsement or certificate of insurance and any amendments to the agreements.

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5. An owner ~~or~~and operator covered by any assurance of the ~~Government~~Commonwealth of Puerto Rico must maintain on file a copy of any evidence of coverage supplied by or required by the Government of Puerto Rico.

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~~6. An owner or~~and operator using an assurance mechanism specified ~~in Rules 867 thru 873,~~ inclusive, must maintain an updated copy of a certification of financial responsibility ~~worded as follows, except that instructions in brackets are according to be replaced with the relevant information and the brackets deleted.~~

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CERTIFICATION OF FINAL RESPONSIBILITY

~~6. [Owner or Operator] hereby certifies that is in compliance with the requirements laws and regulations of Part IX the Commonwealth of the Puerto Rico Underground Storage Tank Control Regulation.~~

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~~The financial assurance mechanism[s] used to demonstrate financial responsibility under Part IX of Puerto Rico Underground Storage Tank Control Regulation is [are] as follows:~~

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~~[For each mechanism, list the type of mechanism, name of issuer, mechanism number (if applicable), amount of coverage, effective period of coverage and whether the mechanism covers "taking corrective action" and/or "compensating third parties for bodily injury and property damage caused by" either "sudden accidental releases" or "nonsudden accidental releases" or "accidental releases".]~~

~~[Signature or owner or operator]~~

~~[Name of owner or operator]~~

~~[Title]~~

~~[Date]~~

~~[Signature of witness or notary]~~

~~[Name of witness or notary]~~

~~[Date]~~

~~7. The owner or~~The owner and operator must update this certification whenever the financial assurance mechanism(s) used to demonstrate financial responsibility change(s).

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Rule 882 — 878. Drawing on Financial Assurance Mechanisms

A. The Executive Director of the Board may require the guarantor, ~~surety, or the~~ institution issuing a letter of credit to ~~place~~certify the amount of funds required, up to the limit of funds provided by the financial assurance mechanism, into the standby trustsecurity fund, if:

1. a) ~~The owner or operator fails to establish alternate financial assurance within 60 days after receiving notice of cancellation of the guarantee, surety bond, letter of credit, or, as applicable, other financial assurance mechanism; and~~

1. b) ~~The Executive Director of the Board determines or suspects that a release from an underground storage tankUST System covered by the mechanism has occurred and so it is the owner and operator notified; the.~~

2. ~~The owner or operator or the owner orand operator has notified the Executive Director of the Board, pursuant to Parts under Part V or VI, of a release from an underground storage tankUST System covered by the mechanism; or.~~

2. ~~The conditions of paragraph B.1 or B.2.a or B.2.b are satisfied.~~

B. The Executive Director of the Board ~~may draw on~~can withdraw funds from a standby trust fund whenif:

1. 1. ~~The Executive Director of the Board makes a final determination that a release has occurred and an immediate or long term corrective action or long term is necessary for the release is neededescape, and the owner orand operator, after being served properly and after appropriate notice and being given the opportunity to comply, hasmeet, not conducted corrective action has been performed, as required underby Part VI; or~~

2. ~~The Executive Director of the Board has received either:~~

a) ~~Certification fromA certification by the owner orand operator and the third-party liability claimant(s) part Plaintiff, and attorneys representing the owner orand operator and the third-party liability claimant(s) that a third party liability part Plaintiff, which one claim shouldfor damage to third parties must be paid. The certification must be worded as follows, except that instructionsdrafted in brackets are to be replacedaccordance, with the relevant information and the brackets deleted.~~

CERTIFICATION OF VALID CLAIM

a. The undersigned, as principals and as legal representatives of [insert owner or operator] and [insert name and address of third party claimant], hereby certify that the claim of bodily injury [laws and/or] property damage caused by an accidental release arising from operating [owner's or operator's] underground storage tank should be paid in the

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amount of \$[____], regulations of the Commonwealth of Puerto Rico,

{Signature(s)} [Signature(s)]
Owner or Operator Claimant(s)

Attorney for Owner or Operator Attorney (s) for Claimant(s)

(Notary) Date (Notary) Date

b. ~~b) Or a final court order establishing a~~ judgment against the owner ~~or~~and operator for bodily injury or property damage, caused by an accidental release from an ~~underground storage tank~~UST, covered by financial assurance ~~mechanism~~ under this Part and the Executive Director of the Board determines that the owner or operator has not satisfied the judgmentpart.

C. If the Executive Director of the Board determines that the amount of corrective action costs and third-party liability claims eligible for payment under paragraph B, may exceed the balance of the ~~standby~~stand by trust fund and the obligation of the provider of financial assurance, the first priority for payment shall be corrective action costs necessary to protect human health and the environment. The Executive Director of the Board shall pay third-party liability claims in the order in which the Executive Director receives certifications under paragraph B.2.a and corresponding court orders under paragraph B.2.b.

Rule 883 — 879. Release from the Requirements

~~An~~The owner ~~or~~and operator ~~is no longer~~shall be not required to maintain, for a UST System, financial responsibility ~~required~~ under this Part ~~for an underground storage tank after the tank, if it has been permanently closed or, if, no other UST System installation and obtained a release of the Board; or after corrective action required, after corrective action has been was completed and, no other UST System installation and obtained a release of the tank has been permanently closed~~Board, as required by Part VII.

Rule 884 Bankruptcy or Other Incapacity of Owner or Operator or Provider of Financial Assurance

~~Within 10 days after commencement~~**Rule 880. Bankruptcy or Other Incapacity of a voluntary or involuntary proceeding-Owner and Operator or Provider of Financial Assurance**

A. ~~Of filing the bankruptcy petition owner and operator under any of the chapters, according to Title 11 (Bankruptcy), of the U.-S. Code, naming an owner or operator as debtor, the owner or operator must~~shall immediately notify the Executive Director of the Board by certified mail of such commencement and submit the appropriate forms listed in Rule 881.B documenting current financial responsibility, by the terms of the guarantee specified.

B. ~~Within 10 days after commencement of a voluntary or involuntary proceeding-Of filing the bankruptcy petition guarantor under any of the chapters, according to Title 11 (Bankruptcy), of the U.S. Code, naming a guarantor providing financial assurance as debtor, such guarantor~~

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~~must~~shall immediately notify the owner ~~or~~ operator and to the Board by certified mail ~~of such commencement as required under~~ by the terms of the guarantee specified in Rule 868.

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C. An owner ~~or~~and operator who obtains financial assurance by a mechanism other than the financial test of self-insurance will be deemed to be without the required financial assurance in the event of a bankruptcy or incapacity of its provider of financial assurance, or a suspension or revocation of the authority of the provider of financial assurance to issue a guarantee, insurance policy, risk retention group coverage policy, surety bond, or letter of credit. The owner or operator must obtain alternate financial assurance as specified in this Part within ~~30~~ten (10) days after receiving notice of such an event. If the owner or operator does not obtain alternate coverage within ~~30~~ten (10) days after such notification, he must notify the Executive Director of the Board.

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D. Within ~~30~~ten (10) days after receipt of notification that a Puerto Rico assurance provider has become incapable of paying for assurance corrective action or third-party compensation costs, the owner ~~or~~and operator must obtain alternate financial assurance.

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~~Rule 885~~ Replenishment of Guarantees, Letters of Credit, or Surety Bonds

Rule 881. Replenishment of Guarantees, Letters of Credit, or Surety Bonds

A. If at any time after a ~~standby~~stand by trust is funded upon the instruction of the Executive Director of the Board with funds drawn from a guarantee, letter of credit, or surety bond, and the amount in the ~~standby~~stand by trust is reduced below the full amount of coverage required, the owner or operator shall by the anniversary date of the financial mechanism from which the funds were drawn:

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1. Replenish the value of financial assurance to equal the full amount of coverage required, or

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2. Acquire another financial assurance mechanism for the amount by which funds in the ~~standby~~stand by trust have been reduced.

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B. For purposes of this Rule, the full amount of coverage required is the amount of coverage to be provided by Rule 865 of this Part. If a combination of mechanisms was used to provide the assurance funds, which were drawn upon, replenishment shall occur by the earliest anniversary date among the mechanisms.

~~Rule 886~~ 882. RESERVED

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Rule 885. RESERVED

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Rule 887, **RESERVED**

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PART X ~~GENERAL PROVISIONS~~ **REQUIREMENTS FOR UST SYSTEM OPERATORS**

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Rule 887 **Revisions to this Regulation**

A. **Effective Date of Revisions**

The Rule 888. General Requirement for All UST Systems

At the effective date of this Regulation, all owners and operators of UST Systems, must designate Class A Operators, Class B Operators, and Class C Operators, that meet the requirements of this Part.

Rule 889. Designation of Operators

UST Systems owners and operators must designate:

A. At least one (1) Class A Operators and one (1) Class B Operator for each UST or group of UST Systems at a facility; and

B. Each individual who meets the definition of Class C Operator at the UST facility as a Class C Operator.

Rule 890. Requirements for Operator Training

UST System owners and operators must ensure Class A, Class B, and Class C Operators meet the requirements of this Part. Any individual designated for more than one operator class must successfully complete the required training program according to the class operator in which the individual is designated.

A. Class A Operators. Each Class A Operator designated must be trained and pass an Exam, through an Accredited Training Program by the Board, in accordance with this Part.

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1. At a minimum, the Training Program for Class A Operators must provide general knowledge of the following:

g. Basic concepts UST Systems and its components;

h. Operation and maintenance;

i. Spills and overfills prevention;

j. Releases detection and related reports;

k. Corrosion protection and related tests;

l. Emergency response;

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m. Product and equipment compatibility;

n. Financial responsibility;

o. Notification and storage tank registration;

p. Temporary and permanent closure;

q. Related reporting and recordkeeping;

r. Environmental and regulatory consequences of releases; and

s. ~~may adopt revisions~~ Training requirements for Class B and Class C Operators.

2. At a minimum, the training program must evaluate Class A Operators to determine these individuals have the knowledge and skills to make informed decisions regarding compliance and determine whether appropriate individuals are fulfilling the operation, maintenance, and recordkeeping requirements for UST Systems in accordance with this Rule.

B. Class B Operators. Each Class B Operator designated must be trained and pass an Exam, through an Accredited Training Program by the Board, in accordance with this Part.

1. At a minimum, the Training Program for Class B Operators must provide general knowledge of the following:

d. Basic concepts UST Systems and its components;

e. Operation and maintenance;

f. Spills and overfills prevention;

g. Releases detection and related reports;

h. Corrosion protection and related tests;

i. Emergency response;

j. Product and equipment compatibility;

k. Reporting and recordkeeping;

l. Environmental and regulatory consequences of releases; and

m. Training requirements for Class A and Class C Operators.

2. At a minimum, the Training Program must evaluate Class B Operators to determine these individuals have the knowledge and skills to implement applicable UST regulatory requirements in the field on the components of typical UST Systems or, as applicable, site

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specific equipment used at an UST facility in accordance with this Part.

C. Class C Operators. Each Class C Operator designated must be trained and pass an Exam, through an Accredited Training Program by the Board, in accordance with this Part.

1. At a minimum, the Training Program for the Class C Operator must have general knowledge of the following:

a. Emergencies;

b. Alarms caused by spills or releases from the UST System.

c. Basics UST Systems, its components;

d. Alarms caused by spills or leaks of UST Systems;

e. Environmental and regulatory implications of the releases, and

f. Training requirements for Class A Operators and Class B Operators.

2. At a minimum, the Training Program must evaluate Class C Operators, to determine these individuals have the knowledge and skills to take appropriate action in response to emergencies or alarms caused by spills or releases from an UST Systems.

Rule 891. Actualization of Operator Training

A. Class A Operators, Class B Operators and Class C Operators of UST Systems determined by the Board to be out of compliance, must complete a training program in accordance with requirements in this Regulation. ~~These revisions shall be in effect~~At a minimum, the training must cover the topics determined to be out of compliance. UST System owners and operators must ensure Class A Operators, Class B Operators and Class C Operators are retrained pursuant to this Part, no later than thirty (30) days after the date the Board determined that the facility is out of compliance, except in one of the following situations:

1. If a Class A Operators, Class B Operators and Class C Operators took an annual refresher training.

2. If the annual refresher training for Class A, Class B and Class C operators covered the applicable requirements in this Regulation.

Rule 892. Documentation

Owners and operators of UST System must maintain a list of designated Class A Operators, Class B Operators, and Class C Operators and maintain records verifying that training and retraining, as applicable, have been completed, in accordance with this Regulation as follows:

A. The list must:

1. Identify all current Class A Operators, Class B Operators, and Class C Operators at the facility; and

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2. Include names, class of operator trained, date assumed duties, date each completed initial training, and any retraining.

B. Records verifying completion of training or retraining must be a paper or electronic record for Class A Operators, Class B Operators, and Class C Operators. The records, at a minimum, must identify name of trainee, date trained, and operator training class completed. Owners and operators must maintain these records for as long as Class A Operators, Class B Operators, and Class C Operators are designated. The following requirements also apply to the following types of training:

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1. Records from classroom or field training programs must, at a minimum, be signed by the trainer or examiner and list the printed name of the trainer or examiner and the company name, address, phone number and fax number;

2. Records from computer based training must, at a minimum, indicate the name of the training program and web address, if Internet based; and

3. Records of retraining must include those areas on which the Class A Operators, Class B Operators and Class C Operator has been retrained.

C. The records specified above must be submitted to the Board for Class A Operators, Class B Operators and Class C Operators.

Rule 893. RESERVED

Rule 894. RESERVED

PART XI. ACREDITATION OF TRAINING PROGRAMS

Rule 895. Operators Training Program

Any Training Program must meet the minimum requirements of this Rule.

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Rule 896. Accreditation of Training Programs

A. Training School Administrator for UST Systems Operators may request accreditation to offer courses and refresher courses in Spanish and English, training in any of the following categories: Class A Operator, Class B Operator and Class C Operator.

~~A.B.~~ Training School Administrator will not provide, offer, training courses of UST Systems Operators without first seeking and receiving appropriate accreditation as required in this Rule.

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Rule 897. Accreditation requirements

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For the Training School to obtain and maintain accreditation from the Board to offer courses for UST Systems Operators, the Program must meet and maintain the following minimum requirements for each category for which accreditation is requested:

A. Entity: Be a corporation duly incorporated under the laws and regulations of the Commonwealth of Puerto Rico.

B. Training School Administrator. The president of the corporation legally constituted that offers a Training Program, must employ an Training School Administrator, that possess:

1. A baccalaureate or post graduate university degree in engineering, environmental science, or a related field, or
2. Two (2) years of experience in the administration of specialized training programs for UST Systems Operators, or
3. Industry expertise in UST Systems including: installation, operation, closure, environmental research, pollution mitigation or others relevant aspects to UST Systems.
4. Training School Administrator will be responsible for ensuring that the Training Program, at all times, comply with the requirements of this Rule.

C. Principal and Guest Instructor. The president of the corporation legally constituted that offers a Training Program, shall appoint for each training course one (1) certified Principal Instructor and one (1) or more Guest Instructors. The Principal Instructor and Guest Instructor shall:

1. Demonstrate experience, education, or training in teaching workers or adults.
2. Successful completion of a course of Training UST Systems Operators of a proven

Training Program, in all three (3) categories.

3. Demonstrate that has two (2) years' experience in managing specialized Training Programs for UST Systems Operators or industry expertise in UST Systems including: installation, operation, closure, environmental research, pollution mitigation and other aspects relevant to UST Systems.
4. The Guest Instructors will teach specific subjects on training courses, that is, lectures, practical teaching activities or work practices.
5. The Principal Instructor will be responsible for organizing the course and supervising the teaching of the curriculum.

D. Trainings courses.

1. Training courses will be evaluated by the Board based on the following requirements: (1) the course administration, (2) the duration of the course, (3) the curriculum, (4) methods of trainings, (5) the qualifications of the instructors, (6) the efficiency of teaching instructor, (7) the technical accuracy of the materials and instructions, (8) tests, (9) training certificate and (10) any other information the Board determines necessary. The evaluation will be carried out according to the requirements of this Rule.
2. Training School Administrator shall ensure the availability and provide the necessary amenities for the lectures, course exams administration, practical skills training and activities evaluation. This includes providing training equipment that reflects current work practices, and maintain equipment and facilities, as needed. Training School Administrator shall notify the Board of any change of address.
3. Upon completion of the courses, the Training School Administrator shall make available to all course participants copies of the Regulation and any other document deemed pertinent as: reference manuals, quick search guides, among others.

E. Theoretical and Practical Curriculum.

1. The Training School Administrator is responsible for ensuring that instructors teach, precisely, the training course curriculum that was accredited by the Board.
2. The Training Program will offer courses that teach all working practices related to the operation of UST Systems in this Regulation. These standards will be taught in the adequate courses, so that the trainees receive the necessary knowledge as UST Systems operators according to their category, and thus ensure that they can carry out the activities of which they are responsible.
3. To be accredited by the Board, the Training School Administrator must ensure that the training course curriculum includes, at least, the following items listed below. The requirements listed marked with asterisks (*) indicate areas that require practical skills activities, as an integral part of the course.

a. Class A Operators:

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- i. Basics UST Systems and components.
- ii. Operation and maintenance.
- iii. Prevention of spills and overfills.
- iv. Detection of leaks.
- v. Protection against corrosion.
- vi. Responding to emergencies.
- vii. Product compatibility and equipment.
- viii. Financial responsibility.
- ix. Registration and Permits UST Systems by the Board.
- x. Temporary and permanent closure.
- xi. Reports and related records retention.
- xii. Environmental and regulatory implications of the leaks.
- xiii. Training requirements for Class B Operators and Class C Operators.
- xiv. Roles and responsibilities of UST Systems Operator
- xv. Information on controlled substances in UST Systems and adverse effects to health and the environment.
- xvi. Information on the Regulation, regulations and federal and state guidelines.
- xvii. Inspection methods UST Systems. *
- xviii. Method for operating a UST Systems. *
- xix. Preparation of inspection reports. *
- xx. Maintenance of files and records.
- xxi. Interpretation of inspection reports and risk assessment. *
- xxii. Recognition and control of risks arising from UST Systems. *
- xxiii. Methods of mitigation, cleanup and risk reduction UST Systems. *

b. Class B Operators:

- i. Basics UST Systems, components.
- ii. Operation and maintenance.
- iii. Prevention of spills and overfills.
- iv. Leak Detection and reports.
- v. Corrosion protection and related tests.
- vi. Responding to emergencies.
- vii. Product compatibility and equipment.
- viii. Reports and related records retention.
- ix. Environmental and regulatory implications of the leaks.
- x. Training requirements for Class A Operators and Class C Operators.
- xi. Roles and responsibilities of UST Systems Operator
- xii. Information on controlled substances in UST Systems and adverse effects to health and the environment.
- xiii. Information on the Regulation, regulations and federal and state guidelines.
- xiv. Maintenance of files and records.

c. Class C Operators:

- i. Basics UST Systems, components.

- ii. Operation and maintenance
- iii. Emergencies.
- iv. Alarms caused by spills or leaks UST Systems.
- v. Environmental and regulatory implications of the leaks.
- vi. Training requirements for Class A Operator and Class B Operator.
- vii. Roles and responsibilities of UST Systems Operator
- viii. Information on controlled substances in UST Systems and adverse effects to health and the environment.
- ix. Information on the Regulation, regulations and federal and state guidelines.
- x. Maintenance of files and records.

4. The Training School Administrator may also request, simultaneously or separately, to be accredited to offer refresher training courses in any of the following categories: Class A Operator, Class B Operator and Class C Operator. To be accredited by the Board to offer a refresher course, a Training Program must meet and maintain the following minimum requirements:

- a. In each review course by category, should cover the topics of curriculum of courses UST Systems operation listed in this Rule, as required.
- b. Ensure that the refresher courses curriculum include, at least, the following:
 - i. A review of the most recent practices related to operation activities UST Systems, in general.
 - ii. A review of the most recent laws and regulations relating to the activities of UST Systems Operation, in general.
 - iii. A review of the most recent technology related activities UST Systems operation, in general.
- c. The duration of each refresher course shall be a minimum of eight (8) hours of training.

F. System evaluation.

- 1. For each course offered, the Training School Administrator will conduct a practical skills assessment, if applicable, and a closed book exam.
- 2. The course exam will be developed in accordance with the course outline. Any examination of an initial training course, for Class A Operator, will consist of a minimum of fifty (50) multiple choice questions. For other categories (Class B Operator or Class C Operator) exams will consist of a minimum of twenty (25) multiple choice questions.
- 3. To successfully complete the training course, each participant must attend one hundred percent (100 %) of the training course, successfully complete practical skills assessment, and pass the exam with eighty percent (80 %) or more of correct answers.
- 4. Failure consists in not passing the exam with eighty percent (80 %) or more of correct answers. In this case the participant will be allowed to perform the exam again, but after

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two (2) failures, the participant will have to take the full course before repeating the exam again.

G. Operator's certification.

1. After the trainee demonstrates that met all the requirements of the Training Program and passed the relevant examination, the Training School Administrator shall certify the applicant as an Operator, according to the category.
2. To certify compliance, the Training School Administrator will issue each participant a certificate of UST Systems Operator, according to category. This certificate shall contain at least the following:
 - a. Name, address and last four (4) Social Security numbers of the participant;
 - b. Title of the training course specifying whether it is an initial or refresher course;
 - c. Date of training course and passing the examination of the applicable course;
 - d. Statement that the participant completed the course and passed the exam requirements and the practical skills assessment;
 - e. The certification number of the participant;
 - f. The name and signature of the Training School Administrator and the printed name of the Principal Trainers;
 - g. The name, address and telephone number of the Training Program;
 - h. Location of training course, if different to the Training Program;
 - i. Date of expiry of the certificate, one (1) year from the date it was certified;
 - j. Language in which the course was administered (Spanish or English) and
 - k. Accreditation of the course date, number of accreditation awarded to Training Program by the Board.
 - l. Any other information deemed necessary.
3. The Training School Administrator will assign to any person certified a certification number and a photo identification card.
4. All certificates shall expire twelve (12) months from the date they were certified. The work performed by the UST Systems Operator, after these twelve (12) months and prior to renewal of the certificate shall constitute a violation of this Regulation.
5. Participants must comply with the requirements of this Rule to maintain certification as UST Systems Operator, according to their category.
6. Only the certification exam that is part of the Training Program course can be taken. The person cannot train with a certified training school and take the exam with another different Training School, since training and exam are consequent and cannot be separated.

Rule 898. Quality Plan.

- A. The Training School Administrator shall develop and implement a Quality Plan for UST Systems Operator courses, according to category. The Training School Administrator shall ensure that procedures and measures established by the Quality Plan are followed.

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B. The Quality Plan will be used to maintain and improve the quality of Training Program over time. This plan shall contain, at least, the following elements:

1. Procedures for periodically reviewing training materials and the course exam, to reflect innovations in the field of matter.
2. Procedure for annual review by the Program Administrator of the competence of Principal Instructor and Guests Instructors.
3. Instructors must follow the training curriculum that was accredited by the Board.
4. A training day will have a minimum of eight (8) hours of direct instruction, including classroom, practical training or field visits.
5. The working time and teaching time shall not exceed twelve (12) hours in a twenty four (24) hours.
6. All training courses requirements must be completed within a maximum period of two (2) weeks from the date of commencement.
7. Training courses will have at least one (1) Principal Instructor and one (1) Guest Instructor.
8. Establish procedures for participants to take the course exam, no more than two (2) times for each training course. After two (2) failures, the participant will have to take the full course before repeating the exam.
9. Provide the necessary safeguards to ensure that the training course participants do not have access to exam questions, before or after administering the same.
10. Establish procedures to prevent fraud in the administration of any exam. The Quality Plan will establish the safety measures to be taken in the administration of the exam. Among other things, the identity of each participant must be verified through photo identification card.

Rule 899. Accreditation Process

The procedures and requirements that a Training School Administrator must meet to be accredited by the Board are:

A. Application: All Training School Administrator that interest accreditation of School Training Program, must submit an application to the Board.

1. A completed application on forms to be adopted by the Board, with the necessary and relevant information, and signed by the president of the corporation legally constituted and by the Training School Administrator. This information must include the name, address, e-mail, telephone and facsimile numbers of the Training Program, and a list of all categories for which it seeks accreditation.
2. A statement signed by the president of the corporation legally constituted and by the Training School Administrator, certifying that the Training Program meets the minimum requirements of this Rule and will comply, at all times, with all the requirements of this Regulation. The statement shall, also, include that the Training School Administrator will be responsible for maintaining the validity and integrity of the practical skills assessment, to ensure that properly evaluates the performance of the trainees in the work practices and procedures associated with each topic of the course, and will, also, be responsible for

maintaining the validity and integrity of the course examinations to ensure that they adequately assess knowledge and trainee's retention of the course topics.

3. A copy of the student's manuals and instructors manuals to be used for each category of training, in the language in which the courses are taught (Spanish or English). It, also, includes a checklist on the course content, to identify and locate the sections of the manual that covers the required topics.
4. A copy of the agenda for each course, which shall include, but not be limited to, the start and completion time and the time devoted daily to teach each course topic.
5. A copy of each training exam with the correct answers marked for each of the exam questions.
6. A description of the facilities and equipment to be used for the conference, exam of the course and the teaching of practical skills.
7. A copy or description of all audio and visual materials to be used in each course.
8. A copy of the exam outline for each training course.
9. A detailed description of each activity of teaching practical skills and skills assessment, including the criteria for determining the proficiency of the participant.
10. A detailed description of the learning objectives or performance to be taught for each course topic.
11. A copy of the Quality Plan.
12. A model of an original certificate of UST Systems Operator.
13. The Board will recognize the following documents as evidence that the Training Schools Administrators, Principals Instructors and Guests Instructors meet the educational requirements, work experience and training, or any of them:
 - a. A copy of the ~~of~~ official academic transcript or diploma as evidence that satisfies the academic requirements;
 - b. Summary, reference letters or documents relating to work experience, as evidence of meeting the work experience requirements. These materials shall include, without limitation, the work history that documents related experience, including dates of work, name, address and telephone number of the employer, positions that has held, completed projects and description of responsibilities for projects;
 - c. A copy of the certificates of training courses for instructors and specific courses related to UST Systems Operator, as proof of having met the training requirements.

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B. Accreditation Fees. All Training School Administrators who seeks accreditation of a Training Program with the Board, must submit a filing at the Puerto Rico fee for the amount of one hundred (\$ 100) dollars and an accreditation fee for the amount of four hundred (\$ 400) dollars for each training category, payable by certified check or money order to Secretary of the Treasury. The filing fee is nonrefundable.

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C. Evaluation of the accreditation application.

1. The Board will review the accreditation application and the documentation submitted in accordance with this Rule.
2. In case of any deficiency, the Board will notify the applicant in writing and provide a term to submit response to these deficiencies. If the deficiencies are not corrected, within a period of forty five (45) days from the date of receipt of notice from the Board, the application and documentation will be returned to the applicant and the applicant will be required to submit a new application. The filling of the application does not constitute an accreditation of the course.

D. Accreditation Certification.

1. If after the Board's technical staff review, the accreditation application meets the requirements of the Board, it will be approved.
2. The Board shall notify the Training School Administrator that the UST System Operators Training Program in accordance with the category, has been accredited and will assign an approval number. Along with the accreditation notice, the Board shall issue a certificate for each accredited category.
3. All accreditation shall expire twelve (12) months from the date the Board issued accreditation. To offer training courses after the accreditation expiration and prior to renewal of such accreditation constitutes a violation of this Rule.

Rule 900. UST Systems Operator Certification Reciprocity of another State Department, or, Tribe or Territory of the United States.

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A. Any person holding a certificate of UST Systems Operator in any category that has been issued in another state, territory, or tribe of the United States, may request such certification reciprocity to any Training School in Puerto Rico accredited by the Board. The Training School Administrator will have the authority to recognize the certification from another state, tribe or territory, since training taken in the state, tribe or territory must have met the minimum requirements in this Regulation.

B. Anyone who wants to be certified by reciprocity must take a refresher course from an Accredited Training Program and pass the relevant examination, as established in this Rule.

C. Any person who wants to be certified by reciprocity shall, also, submit to the Accredited

Training School the following:

1. Submit a completed application, signed by the applicant with all required information according to the requirements of this Rule;
2. Original and copy of the certificate issued by the state, tribe or U.S. territory in which the person seeks certification by reciprocity. These documents will be submitted to the Training School Administrator, who will certify as true and exact copies of the original and return the originals.

D. The Training School Administrator will verify the validity of the certificate issued by the state, tribe or U.S. territory prior to certification as UST Systems Operator. If is not possible to verify the certificate validity, the applicant shall comply with the certification process, as if he had never taken a course.

Rule 901. People Certified before the Enactment of this Regulation

A. Any person who has received an UST Systems Operator training by any Training School before the effective date of this Regulation, may apply for a certification at an Accredited Training School by the Board, if it meets the following requirements:

1. Submit a completed application, signed by the applicant, with all required information according to the requirements of this Rule;
2. Successfully complete a refresher course offered by an Accredited Training Program by the Board, if one (1) years have elapsed from the date of the UST System Operator training, before the effective date of this Regulation.
3. Pass the UST Systems Operator certification exam for the category for which it was previously trained;

B. Individuals certified before the effective date of this Regulation, may apply for certification within six (6) months from the effective date of this Regulation. After six (6) months of the effective date of this Regulation, the applicant must comply with the certification process, as if had never taken a course.

Rule 902. Suspension, Revocation and Modification of an UST Systems Operator Certification

A. The Board and the Training School Administrator may investigate the actions of any person certified as UST Systems Operator. The Board may suspend, revoke or modify the certification of such person, when it is determined:

1. Documents were obtained by fraudulent means;
2. Achieved admission and completed an Accredited Training Program by false representation related to the admission requirements;
3. Obtained certification by fraudulent means or false misrepresentations of the certification requirements, or documents related to education, training or experience;
4. Worked as UST Systems Operator without certification;

5. Allowed the use or duplication of the certification;
6. Failed to comply with adequate rules and work practices for activities, as provided in this Regulation;
7. Violated federal or state laws and regulations related to UST Systems Operation;
8. Used people, not certified, to perform work requiring certification.
9. Committed any other act which affects the health, welfare and public safety.

B. Once the Training School Administrator gets acquainted with irregularities committed by the UST Systems Operator, must, ~~immediately through the issuance of an Executive Order by the Governor in accordance with provisions of Law 170 of August 12, 1988.~~, notify to the Board,

~~B.~~ Requests for Revision of this Regulation

C. Any When an UST Systems Operator certification is revoked, the person may qualify after a minimum period of six (6) months and up to five (5) years maximum, at the discretion of the Board, counted from the date of revocation.

Rule 903. Notification Requirements for Training Program, Records and Registration

A. The Training School Administrator shall submit to the Board the following:

1. A notice of intent to conduct a training course. Notifications for the training courses, must be postmarked ~~or entity may petition the Board to revise (amend), modify,~~ received at DCUST ten (10) calendar days before the course start date. If the course was canceled, the Training School Administrator shall notify the Board at least one (1) day before the scheduled start date to begin the course. The notice of intent to conduct a training course shall be made on forms adopted by the Board. The information to be provided is as follows:
 - a. Name, address, phone number of the Training Program and name of the contact person;
 - b. Title of training course;
 - c. Dates of the training course and the exam;
 - d. Commencement and completion time of the training course;
 - e. Course location and directions;
 - f. Course's language (Spanish ~~or revoke~~ English)
 - g. Course Principal Instructor and Guests Instructors
 - h. School Training Administrator signature.
2. A list of persons enrolled in the course, no later than seven (7) days after the last day of the training. The list of persons enrolled in the course must be submitted on forms to be adopted by the Board. The information to be provided is: name of each participant who attended

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the training course, or has received an UST Systems Operator certificate. List of persons who passed the certification with the certification data and the expiration dates of the certification.

3. Any change in: course length, curriculum, training methods, manual or training materials, instructor, course exam, training certificate, Training School Administrator and contact person. This must be in writing, at least ten (10) calendar days before the scheduled start date for the training course.
4. The changes must be approved by the Board before their implementation, so that the course is accepted for accreditation purposes.
5. The curriculum, materials and documents reflecting ~~any part of changes~~, as provided in this Rule. These should be submitted to the Board, when the School Training Administrator applies for re accreditation.
6. Information on how to evaluate each student in relation to practical skills training, tasks and working procedures. This includes, but is not limited to: instructor who conducted the evaluation, criteria to qualify, facilities that are used, and the ratio of approved and failed.
7. The results of the evaluations of the course exams, practical skills assessments and a record of course completion certificate for each student.
 - a. Training School Administrator shall maintain and make available to the Board all the information related to the accredited Training Program, as provided in this Rule. This should be available at any time to the Board's inspection and audit.
 - b. Training School Administrator will retain records and files specified in this Rule, at the address in the Training Program accreditation application, for a minimum of five (5) years. Training School Administrator shall notify the Board, within thirty (30) calendar days, on changes at the address specified in the Training Program accreditation application, transfer of files and records outside of this address.

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Rule 904. Training Programs Audit

- A. Training School Administrator will allow to the Board to attend, evaluate and inspect any training course, the course exam and have access to the records of the training courses, without charges or hindrances to the Board; that for purposes of evaluating compliance with this Regulation.
- B. Officials of the DCUST will conduct periodic audits, without notice, on Trainings Programs accredited for compliance with this Regulation.

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Rule 905. ~~The petition must be submitted to the Board by certified mail and~~ Minimum Requirements for Renewal of Training Programs Accreditation

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A. A Training School Administrator who files a renewal of an accreditation application, must submit it on forms to be adopted by the Board. The application must be signed by the Training School Administrator. The renewal application must include the following:

1. The petitioner's name and Name, address and phone number of Training Program;
2. A list of all courses for which the Administrator seeks accreditation renewal;
3. A description of any changes in the training facilities, equipment, curriculum, practical activities, trainers and quality assurance plan made after the approval of the last application.
4. A statement pertaining signed by the Training School Administrator certifying that the Program meets the requirements set in this Regulation.

2.B. The application for renewal accreditation must be submitted to the interest of the petitioner; Board, thirty (30) days before the expiration date for each category accredited by the Board. The renewal accreditation application must include a filing fee of twenty-five (\$25) dollars and a renewal fee in the amount of four hundred (\$400) dollars for each category, payable by certified check or money order addressed to Secretary of the Treasury. The application filing fee is non-refundable.

3. A complete description of the proposed revision including suggested regulatory language; and

4. A detailed statement of the need for the proposed revision and its justification, including any supporting tests, studies, or other information in support of the request.

The Board shall not adopt any revision to this Regulation without prior publication of a public notice and holding the corresponding public hearing.

C. Revisions Due to Changes in Applicable Federal Regulations

Revisions of federal regulations referred to in this Regulation shall become effective as part of this Regulation, only upon their adoption by the Board.

D. Effect of Pending Revisions

Notwithstanding any other provision of this Regulation, while any revision of this Regulation is pending, any UST approval or authorization under consideration of the Board, shall be based on the Regulation in effect, except as it may be affected by paragraph C of this Rule.

For purposes of this Rule, a revision is pending:

1. From the date of the first publication of a the Public Notice announcing the public hearing on the proposed revision, and
2. Until 120 days after the close of public hearings, or until the effective date of

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~~the revision, or until the date of the Board's final action rejecting or withdrawing the revision, whichever occurs first.~~

~~E. Effect of Revisions on Authorizations or Permits Issued by the Board~~

~~Revisions to this Regulation shall not impair the validity of any UST authorization or permit issued or approved before the effective date of such revision, except that the Board may revoke or impose additional conditions to any such authorizations or permits issued previously when the Board finds such action is necessary to attain compliance with the applicable new or revised regulation. In such cases, the Board will notify the intent to revoke or modify the permit and the owner of such permit will have the opportunity for an administrative hearing before the Board.~~

~~The Board will not revoke or impose additional conditions to any authorization or permit until after 180 days of the effective date of the corresponding revision.~~

~~F. Public Notice and Public Hearing on Revisions to this Regulation~~

~~1. The Board shall not adopt any revisions to this Regulation without prior publication of a Public Notice and holding the corresponding Public Hearing in accordance with Rule 892, nevertheless, this provision shall not limit the authority of the Board to adopt the proposed amendment(s).~~

~~2. The Public Hearing requirements referred to in Rule 897.F.1 above shall not apply in cases where the Board has to adopt amendments that modify the text of pending amendments to this Regulation, which have already been considered in public hearing, if said modifications do not alter or significantly change the concept or intent of the original version of the proposed amendment.~~

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~~G. Report on Proposed Amendments Considered at Public Hearing~~

C. The Board, Training School Administrator who files a renewal accreditation application after holding a Public Hearing, will issue a resolution describing its final decision, if any, regarding the proposed action. Within forty five (45) days of the Board's final decision, copies of this Resolutionthe expiration date, shall be mailed to governed by the requirements specified in this Rule, as a new applicant for accreditation purposes.

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D. The Board may inspect the Training Program at any time to verify the content of the renewal accreditation application. If the Training Program meets all renewal requirements, the Board will issue an accreditation certificate.

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Rule 906. Reciprocity of a Training Program

A. Any Training School Administrator may request that the Board approve accredited courses, if their training courses or refresher courses have been accredited by a state, tribe or territory outside Puerto Rico.

B. Training School Administrator who seeks Board accreditation by reciprocity, must meet the same requirements specified in this Part, as a new applicant.

Rule 907. Suspension, Revocation and Amendment of the Accreditation Trainings.

B. The Board may investigate the actions of any accredited Training School and may suspend, revoke or modify an Accredited Training Program and impose fines or both, upon a determination that the Training Program, the School Training Administrator, or others with responsibility within the Program, have violated any provision of this Rule or have made misleading statements about the content of the training course to the Board or the participants, have not complied with the state and federal statutes and regulations related to UST Systems, or have made false or misleading statements to the Board on the accreditation or renewal application, or any other violation of this Regulation.

C. Upon hearings and shall revocation of the accreditation of a Training Program, it may be available to all interested public, for a minimum of six (6) months and not more than five (5) years at the discretion of the Board. The Board may, also, impose administrative penalties for violations of this rule.

D. In cases where the Board determines that the violation has occurred for acts caused by a person within the Training Program, the Board may revoke the accreditation, and also, revoke the certification of such person for a minimum term of six (6) months and no more than five (5) years and impose administrative fines or both.

Rule 908. RESERVED

Rule 909. RESERVED

PART XII. Monitoring, Recordkeeping, Reporting, Sampling and Testing Methods
GENERAL
PROVISIO
NS Rule 888

Rule 910. Monitoring, Recordkeeping, Reporting, Sampling and Testing Methods

A. Monitoring, Recordkeeping, and Reporting

A. . The Board may require the owner ~~or~~and operator of an UST facility the use and maintenance of monitoring equipment, ~~to establish~~ and ~~maintain~~to keep records. In addition, prepare and submit those periodic reports required under this Regulation that the Board deems necessary.

B. Sample Collection and Analysis

1. All sample collection, preservation, and analysis of samples shall be carried out in accordance with test methods and procedures specified in PARPCUST (Appendix I ~~and/or in~~), the EPA regulations (40 CFR Parts 141 ~~or~~to 257 ~~or, if none are so specified,~~) and as

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provided for in the ~~American Society for Testing and Materials (ASTM)~~, which are accepted by the Board.

2. All chemical analyses shall be certified by a chemist licensed in Puerto Rico. In addition, Standard Operating Procedures (SOPs) and the Quality Assurance ~~Quality Control (QA/QC) Program~~ of the laboratory that performed the analyses shall also be provided.

3. Laboratories may initially submit to the Board the SOPs and QA/QC procedures being implemented by them. Annually, the laboratories shall review such documents, update them and submit them again, if these have been revised. If no revisions were necessary, the corresponding laboratories shall submit a certification to the Board indicating that the SOPs and QA/QC procedures being implemented have not been modified.

C. Certification of Records and Reports

C. All records and reports required by this Regulation shall be submitted with a sworn statement or affidavit of the owner ~~or~~ and operator or of a highest-ranking official representing the person or entity that owns or operates the facility. Such sworn statement shall attest to the veracity, correctness, and completeness of such records and reports. If the owner or operator is a corporation, the highest-ranking official being the corporate President, a Vice-President ~~reporting directly to the President~~, the highest ranking corporate officer with an office in Puerto Rico, or a duly authorized representative upon presentation of delegation documents. An official of equivalent rank may attest to records and reports of organizations other than corporations.

D. Certification Oath

The person responsible for signing the records and reports shall make the following certification:

"I certify that all information submitted in this document, and all corresponding attachments are accurate, true and complete. The information provided has been presented without the intent to lessen the facts or commit fraud. I am aware that on discovery of any deceit or fraud related with documents I signed, I will be subjected to penalties, including fines, imprisonment or both."

Rule 889 Equipment Malfunction Reporting

Rule 911. Equipment Malfunction Reporting

A. In the event that any UST pollution control equipment or other related equipment breaks down, malfunctions, ruptures, releases or is rendered partially or totally inoperative in such a manner as to cause a release of the regulated substance in violation of this Regulation, or any monitoring or other information indicating that the regulated substance may present a risk to an underground source of drinking water, the owner or operator responsible for such equipment, or facility shall report immediately to the Board such failure, breakdown or non-

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compliance, ~~within 24 hours~~, following the failure or non-compliance and must provide all pertinent available facts, including the estimated duration of the non-compliance or malfunction, ~~according to this Regulation~~.

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B. The owner ~~or~~and operator shall take all technically feasible steps to minimize or correct any adverse impact on the environment.

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C. The Board shall be notified in writing within seven (7) days after the occurrence of an incident using the procedure established in ~~Rule 837, unless the Part V, although~~ corrective action is initiated in accordance with Part VI of this Regulation.

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~~D. The occurrence of a malfunction shall not relieve the owner or operator from complying with any provision of this Regulation.~~

Rule 890 Confidentiality of Information

~~Any information, records or reports obtained by, or to be submitted to the Board, as required by this Regulation shall be available to the public for inspection and/or copying, except when the Board has determined the information, reports or records to be confidential. The Board will only consider information to be confidential if it affects adversely and substantially the competitive position of the person providing the information. Any person who submits information to the Board may assert a claim of confidentiality covering all or part of that information by declaring, in writing, all the specific reasons for that claim. If no claim of confidentiality accompanies the information when it is submitted to the Board, it will be made available to the public without further notice to the person that submits the information.~~

~~Confidentiality of information does not justify its being withheld from the Board, including its officials and its employees. Confidentiality of information will not hinder the Board, including its officials and its employees, from making whatever confidential use of such information may be necessary for implementation of this Regulation, including use in enforcement proceedings and including the sharing of such information with EPA upon request without restriction.~~

~~Any claim of confidentiality filed pursuant to this Rule must be accompanied by a legal statement basis supporting the claim of confidentiality.~~

~~Claims of confidentiality for information which deals with the presence, absence or level of contaminants in drinking water and in the water of Puerto Rico shall be denied~~

Rule 891 Rule 912. Confidentiality of Information

All information, records or reports, or to be presented to the Board, under the provisions of this Regulation, shall be available to the public for inspection and copying.

Rule 913. Right of Entry to Inspect

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A. Right of Entry

A. Representatives of the Board, upon ~~representation~~ presentation of their credentials and subject to pertinent provisions of the ~~Environmental Public Policy Environmental Act (Law 416 of September 22, 2004, as amended)~~, shall:

1. Have the right of entry, without prior notice, to, ~~upon, or through~~ any premise on which an UST ~~system~~ System is located or in which any record required to be maintained under this Regulation ~~are~~ is located;
2. ~~At reasonable times, have~~ Have access to inspect and copy any record(s) required by the Board or by this Regulation ~~or and~~ to inspect and review any facility, equipment or test procedures regulated or required under this Regulation; and
3. Have access to sample or monitor ~~for a reasonable period of time,~~ any substance or parameter in any location, with the purpose of assuring compliance with the provisions of this Regulation.

Rule 892 914. Public Notice and Public Hearings

A. Public Notice

~~No public notice will be required when a request for a permit is filed unless the Board finds, on the basis of requests, a significant degree of public interest for any UST system permit.~~

~~1. All public notices shall specify the date, time and place where any background documents, regarding a pending matter before the Board, will be available for public inspection, including any preliminary determination by the Board on permit applications and the period during which interested persons may submit written comments or request a public hearing. A request for public hearing shall be in writing and shall state the nature of the issues proposed to be raised in the hearing.~~

~~2. All public notices shall also specify the following:~~

- a) ~~A brief description of the operations conducted or proposed at the facility described in the permit application.~~
- b) ~~A brief description of the comment procedures required, including a statement of procedures to request a hearing (unless a hearing has already been scheduled) and other procedures by which the public may participate in the final decision;~~

~~will,~~

~~e) Any additional information considered necessary or proper by the Board;~~

~~d) Public notices not used for announcing the holding of public hearing(s) shall~~

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~~establish a thirty (30) days period, from require the publication of the notice, to receive comments from the public or requests notice for public hearings:~~

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~~3. All public notices any type of public hearings shall specify the day, the time and place of the public hearing and shall be published at least thirty (30) days before the hearing.~~

~~4. The public notice shall be published in at least one (1) newspaper of general circulation in Puerto Rico~~

~~5.A. Whenever the public notice relates to any application or appeal procedure required under consideration by the Board, the petitioner shall pay the Board the cost of the this Regulation, notice before its publication or assure that the notice is published, in which case the publication shall be made in accordance with the specifications established herein or by the Board.~~

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~~B. Public Hearings~~

~~1. The Board shall may hold public hearings when required by this Regulation, giving notice thereof according to the proceeding established in Paragraph A above.~~

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~~2. The Board may also, at its option, hold public hearings on those matters under its consideration.~~

~~3. The Board shall hold a public hearing whenever the Board finds, on the basis of request, a significant degree of public interest.~~

~~4.B. If the Board decides to hold a public hearing on a matter for which as it has published a public notice, without having announced the public hearing, the Board must publish a new announcement regarding said public hearing deems necessary and appropriate, in accordance and in compliance with LPAU.~~

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~~5. The Board shall periodically hold public hearings to consider possible revisions to this Regulation or submit the complete Regulation to hearings for the proposal of revisions by the public.~~

~~6. The Board may, at its discretion, propose revisions to this Regulation for consideration at any such hearing. Notice of these hearings will be given as provided in Paragraph A above.~~

~~Rule 893 — 915. Field Citation Expedited Enforcement Procedures~~

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~~A. Selecting Appropriate Violations.~~

~~A. The Board will consider the following criteria when selecting violations for which it is appropriate to issue a field citation:~~

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1. Violations that are clear-cut and easily verifiable;
2. Violations that are easily correctable; and
3. First-time violators.

B. B. Penalty Amounts. Field citation penalties will be issued in adopted by the amounts Board by resolution of \$70, \$210, or \$420, depending upon the Governing Board.

C. C. When a violation Appendix III contains a list of violations and exists, the associated penalty amounts.

C. Form of Citation. The Board Inspector will issue to the offender a field citation form, entitled "Expedited Enforcement Compliance Order and Settlement Agreement", provided in Appendix IV to be adopted by the Board by resolution of the Governing Board.

D. Procedures

1. The owner ~~or~~and operator issued a field citation must pay the penalty amount and correct the violation within thirty (30) calendar days from the date of issuance.
2. If the owner ~~or~~and operator does not pay the penalty amount and correct the violation within thirty (30) calendar days from the date of issuance, the Board will pursue more formal enforcement measures pursuant to Rule 894 this Part.
3. The Board may consider granting a thirty (30-) day extension beyond the thirty (30-) day period in which the owner or operator must pay the penalty amount and correct the violation, if the following conditions are met:

a) ~~The owner or~~and operator files a formal request for the extension;

a. b) ~~The owner or operator~~ demonstrates that there are factors beyond the control of the owner or operator that necessitate an extension; and

b. e) ~~The Board~~ believes that compliance will be achieved within the period of the extension.

4. The Board may, also, consider extending the period of thirty (30) days in case of occurrence of an event of force majeure.

Rule 9164. The Board may also considering extending the 30-day extension for cases in which a force majeure event occurs. "Force majeure," for the purpose of this Rule, is defined as any event arising from causes beyond the control of the owner/operator or of any entity controlled by the owner/operator, including, but not limited to, the owner/operator's contractors and subcontractors, that delays or prevents the performance of any obligation under the field citation, despite the owner/operator's best efforts to fulfill the obligation. The

owner/operator's "best efforts to fulfill the obligation" include using best efforts to anticipate any potential *force majeure* event, and best efforts to address the effects of any potential *force majeure* event (1) as it is occurring and (2) following the *force majeure* event, such that the delay is minimized to the greatest extent possible. Examples of *force majeure* events include extreme weather conditions that render scheduled excavation of tanks or piping impossible, or a major event, such as flooding or an earthquake that disrupts normal commerce. Events not constituting *force majeure* include, but are not limited to, financial inability to perform any actions required by the field citation and unanticipated or increased costs or expenses associated with the implementation of the field citation.

Rule 894 — Notice of Violation and Compliance Order

- A. Whenever the Board determines that provisions of this Regulation have been violated, the Board ~~shall~~may issue a written notice of violation to the alleged violator.
- B. All notice of violation shall specify the violation and, where compliance has not been achieved and the period granted to attain compliance. The notice will also specify any requirements that the Board deems necessary to achieve compliance.
- C. ~~If the violations persist beyond the time limit granted for attaining compliance, the Board will either The Board may issue a compliance order Orders to Do, Show Cause, Cease and Desist, or take any other action pursuant to in accordance with the Environmental Public Policy Environmental Act.~~

Rule 895 — 917. Closure of a Facility or an ~~Underground Storage Tank~~ UST System

- A. The Board may order the closure of a facility or UST ~~system~~System found in non-compliance with this Regulation, ~~or if a violation persists after the time limit granted by the Board under a notice of violation, an order or any other enforcement action, and the Law.~~
- B. ~~The closure order shall remain in effect until the facility with the UST system is in compliance with this Regulation and the permits issued. The person against which said orderwhom the Order to Cease and Desist is issued may, can request an administrative hearing where setting out the reasons shall be stated to explain whyfor the order shouldto be modified or revoked and should not put in effect, be enforced. The filing of the request for administrative hearing shalldoes not exempt any person from complying with or obeying any order or decision of the Board, nor shall it operate in any time as a suspension or postponement of its effectiveness, unless a special order form the Board so directs.~~

Rule 896 — Public Nuisance

- B. ~~Nothing in this Regulation shall be construed to authorize or legalize the creation or maintenance of a public nuisance as defined in Article 329 of the Penal Code of Puerto Rico, as amended.~~

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C. ~~This Rule shall not be understood as a limit or restriction of other prohibitions established in other parts of this Regulation~~^{918.} ~~5~~

~~Rule 897~~ ~~Penalties and Authorization Revocation~~ ~~Damage Actions Recovery~~

A. ~~Penalties.~~ The Board may impose administrative penalties for any violation of the provisions of this Regulations and orders and decisions under its laws or regulations. Administrative penalties can amount to twenty five thousand dollars (\$ 25,000) per day for each violation. Each day for which the violation persists shall be consider a separate violation.

B. ~~Contumacy.~~ In cases of contumacy is incurred, perpetration or continuance of acts for which has already been penalty , or failure to comply with any order or resolution issued by the Board, it may impose an additional administrative penalty not exceed fifty thousand dollars (\$ 50,000) per day for each violation.

~~C. Criminal Sanctions~~

1. ~~Violations of this Regulation.~~ Any violation of this Regulation or ~~of~~ any authorization or permit issued pursuant to it, will under this Regulation shall constitute a misdemeanor, and will ~~shall~~ be subject to the penalties established ~~prescribed~~ by the ~~Puerto Rico Public Policy Environmental Public Policy Act (Law 416.~~

2. ~~Violations of September 22, 2004, as amended).~~ Moreover, ~~the certification process.~~ Any person who violates the provisions of this Regulation for the certification process, or providing a false representation, certification or statement under this Regulation, or that provides false representation in any report required by the Board, is subject to the applicable penalties according to the Environmental Public Policy Act.

D. ~~Recovery Actions.~~ The Board may go to any court to recover the total value of damages done to Puerto Rico environment and natural resources, which were caused by any violation of this Regulation and orders and decisions issued under its authority.

~~Rule 919. Revocation of authorization~~

The Board may, in any case of violation ~~to~~ of any ~~of the Applicable~~ applicable Rules and Regulations, issued pursuant thereto, suspend, amend, or revoke any ~~relevant~~ certification, approval or permit ~~issued~~ ~~granted~~ under this Regulation.

~~Rule 898~~ ~~Overlapping or~~ ~~920. Inconsistent or contradictory~~ Provisions

If a requirement established by any provision of this Regulation is either more restrictive or less restrictive than a requirement established by any other provision of this Regulation or any other law, regulation, standard, or limit established by any duly constituted governmental authority having jurisdiction, the requirement which is more restrictive shall prevail.

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If a two requirements established in this Regulation or applicable laws are different, shall prevail and apply the requirements that are more restrictive.

Rule 899 — Nullification-921. Derogation

This Regulation shall nullify all previous provision(s), resolution(s), agreement(s) or regulation(s) on derogate the same subject approved by the Board, which may be inconsistent with this Underground Storage Tanks Control Regulation, No. 4362 of November 14, 1990 and interpretative resolutions issued under it, and any other relevant determination.

Rule 900 — 922. Separability Clause

If a Court declares any provision of this Regulation illegal or unconstitutional, such declaration or sentence shall not affect the other provisions of this Regulation, each one being considered as separate.

Rule 901 — 923. Effectiveness

This Regulation shall go into effect thirty (30) days after the date of its filing at the Puerto Rico's State Department of State of Puerto Rico, in conformity with Law 170 of August 12, 1988 as amended LPAU.

Rule 902 — 924. Public Record

The Puerto Rico Environmental Quality Board shall maintain and publish a public record indicating the number of active regulated UST facilities, and the status of these facilities with respect to inspections and summary information pertaining to release sources and causes, known as LUST list. This public record shall be maintained in tabular format and shall be updated and posted in the EQB internet page (www.jca.gobierno.pr).

Rule 903 — Rule 925. Adopted language to this Regulation

The Spanish language version, is adopted by the Board as Regulation. If there is a translation in the English language, and if there is any difference with the version adopted by the Board, the Spanish version prevails.

Rule 926. Amendments to the Regulations

The process of amendments to this Regulation, shall be in accordance with the provisions of the LPAU.

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~~Rule 904—Purpose, Scope and Applicability~~

Rule 905—General Prohibitions

No person shall cause or allow a spill or release of regulated substances from an ~~underground storage tanks system~~UST System into surface or coastal waters of the Commonwealth of Puerto Rico.

No person shall cause or allow the contamination of an existing or potential groundwater source of drinking water.

No person shall cause or allow the installation, operation or closure of an ~~underground storage tank system~~ **UST System** in violation of this Regulation, or other applicable laws or regulations of **the Commonwealth of Puerto Rico**.

No person shall cause or allow the installation, operation or closure of an ~~underground storage tanks system~~ UST System, without taking all practicable measures to control fires, explosions, releases and spills. ~~Regulated substances shall be transported, stored~~ processed and disposed in such manner, that it ~~does do~~ not cause a hazard to health or public security.

~~No person shall cause install, operate, modify, close, investigate, or allow perform corrective actions of an UST System without a permit from the installation or closure of any Underground Storage Tank system not in compliance with the requirements of this Regulation Board.~~

A. 1. Except for existing UST ~~systems~~System that ~~provide~~provides adequate protection, no person shall cause or allow the installation or operation of UST ~~systems where~~

~~the base~~System in flood areas that limit the flow may be restricted nor shall the UST system of water or reduce the temporary water storage capacity of the ~~floodplain~~flood plain, so as to pose a hazard to human health, wildlife, ground or water resources.

B. 2. ~~No person shall cause or allow installation of a new UST system~~System at a distance less than four (4) feet between the tank bottom and the water table, unless it is a double-walled UST with an interstitial detection system or a UST system that provides the same protection as a double-walled UST and complies with the requirements of this Regulation.

G. _____

Rule 933. Prohibitions for the Operation of Retail Gasoline Service Stations, Gasoline Service Stations that Supply Government Vehicles, Private Organizations of Different Nature and Motor Vehicle Dealers

A. 1. During School Hours:

1. a) ~~No person or owner and operator of~~ retail gasoline service station operator or gasoline service stations that serve government vehicles, private organizations of different nature and dealers of motor vehicles established before January 26, 2004, located within a radius of ~~thousand~~ (1,000) feet from a public or private school or a post-secondary institution, shall perform the following activities:

a. i. ~~Receive gasoline or any other fuels~~fuel in their tanks; perform cleaning activities; maintenance or any other action that involves opening and leaving exposed fuel tanks, except in those activities covered in ~~Rule 843~~Part III of this Regulation.

b. ii. ~~No gasoline distributor will serve any person or owner and operator of retail gasoline service station operator, gasoline service stations, that supply government vehicles, private organizations of different nature and motor vehicle dealers that are within a radius of a thousand (1,000) feet from a public, private school or a post-secondary institution.~~

H. B. Prohibitions for Locating Retail Gasoline Service Stations

~~No person shall establish a new retail gasoline service station in a radius of a thousand (1,000) feet from a public or private school or a post-secondary institution.~~

I. C. Exemptions

~~Due to geographical limitations, the municipalities of Vieques and Culebra are exempted of compliance with the provisions in paragraphs G and H of this Rule.~~

J. Rule 934. Prohibition of Field Constructed Tanks

No person shall establish field constructed tanks for the storage of substances subject to the provisions of this Regulation.

K. Rule 935. Fuel Product Delivery Prohibition (Red Tag)

A. 1. It shall be unlawful to deliver to, deposit into, or accept a regulated substance into an ~~underground storage tank~~UST, at a facility that has been identified by the Board as ineligible for fuel ~~deposit or delivery or deposit~~.

B. 2. a) In order to prevent the delivery of a regulated substance into an ~~underground storage tank~~UST system that has been identified by the Board as ineligible, a tamper-proof red tag shall be affixed to the fill pipe of the ineligible ~~underground storage tank~~UST, clearly identifying the tank as ineligible for delivery, deposit, or acceptance of product.

C. b) This affixed red tag shall serve as written notification to the owner, operator, and the product delivery industry of the prohibition of delivery to the ~~tank system~~UST System.

D. 3. a) A red tag shall immediately be affixed upon finding by the Board of any of the following:

1. i. Required spill prevention equipment is not installed;
2. ii. Required overfill protection equipment is not installed;
3. iii. Required release detection equipment is not installed;
4. iv. Required corrosion protection equipment is not installed; or
5. v. Other conditions that the Board deems appropriate.

E. b) The Board may delay the affixing of a red tag to an ~~underground storage tank~~UST, for ~~up to maximum of one hundred eighty (180)~~ days upon determination that:

1. i. No urgent threat to public health exists; and
2. ii. Such an action would jeopardize the availability of, or access to, fuel in any rural or remote area.

F. e) A red tag shall be affixed ~~immediately~~, to an ~~underground storage tank~~UST, upon finding by the Board of any of the following ~~if the owner or operator has been provided a written notice of noncompliance and the owner or operator has failed to comply within the timeframe given in the notice~~conditions:

1. i. Failure to properly operate or maintain release detection equipment;

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2. ~~ii.~~ Failure to properly operate or maintain spill, overfill, or corrosion protection equipment; or

3. ~~iii.~~ Failure to maintain financial responsibility;

4. ~~iv.~~ Failure to protect a buried metal flexible connector from corrosion;

5. ~~v.~~ Other conditions that the Board deems appropriate.

G. 4. No owner ~~or~~and operator shall receive any regulated substance into any ~~underground storage tank~~UST, to which notification of delivery prohibition (red tag) has been affixed.

H. 5. No person selling any regulated substance shall deliver or cause to be delivered a regulated substance into any ~~underground storage tank~~UST, to which notification of delivery prohibition (red tag) has been affixed.

I. 6. It shall be unlawful for any person, other than an authorized representative of the Board, to remove, tamper ~~with~~, destroy, or damage a red tag affixed to any ~~underground storage tank~~UST by Board personnel.

J. 7. a) In order for an owner ~~or~~and operator of an ~~underground storage tank~~UST, which has been red tagged, to have the tank reclassified by the Board as eligible to receive delivery of a regulated substance, he or she must provide a written statement to the Board ~~indicating~~ that the deficiencies listed in the ~~notice of noncompliance~~ notice have been corrected.

K. b) The Board will determine whether the deficiencies have been corrected as soon as practicable ~~but~~ within five (5) business days after receipt of the owner's written statement of compliance.

L. e) Upon verification of compliance, Board personnel will remove the red tag.

Rule ~~906~~ ~~936~~. RESERVED

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PART ~~XII~~ XIV. FEES

Rule ~~907~~ 937. Application Processing Fees

~~A. Application~~ Anyone who submits a Permit Application, an Initial Registration Application, or a Permit Renewal Application must pay a non-refundable administrative fee of fifty (\$50) dollars for processing the application.

Rule ~~938~~ 938. Initial Registration, Permits, Renewal and Amendments to Permits Fees

~~A.~~ The Board establishes that any owner and operator who submits an application for: initial registration, installation permit, closure permit, operating permit, renewal permit, modification permit, must pay a fee for processing the application along with a fee depending on the type of application. Such charges are summarized in the following Table.

Processing Fee

Any person that submits a permit application, initial notification, , or permit renewal application form, shall pay a non-refundable Application Processing Fee of \$50

~~E. f~~

Rule ~~908~~ 938. Initial Notification, Permit, and Permit Modification Fees

~~A.~~ Initial Notification

- ~~1.~~ Any person that submits an Initial Notification shall pay, in addition to the Filing Fee established in Rule 907, an additional fee for each underground storage tank in accordance with the following, except for gasoline stations:

Volume in Gallonsgallons		Application Processing Fee	Initial Registration	Installation and Closure Permits	Operation and Renewal Permit	Minor Modification Permit	Major Modification Permit
No Gas Stations	5,000 or less	\$50.00*	\$25.00**	\$50.00**	\$150.00**	\$50.00**	\$150.00**
	5,001 - 15,000	\$50.00*	\$50.00**	\$100.00**	\$300.00**	\$50.00**	\$150.00**
	15,001 - 100,000	\$50.00*	\$100.00**	\$200.00**	\$600.00**	\$50.00**	\$150.00**
	100,001 and aboveor more	\$50.00*	\$200.00**	\$400.00**	\$1,200.00**	\$50.00**	\$150.00**
	Gas Stations	\$50.00*	\$ 75.00**	\$150.00**	\$450.00**	\$50.00**	\$150.00**

* Charges by facility
**Charges must be multiplied by the number of tanks that owns the facility

- ~~2.~~ The fee for each tank to be installed at a gasoline station is \$75.00, in addition to the Application Processing Fee established in Rule 907.

B. Installation and Closure Permit

1. Any person that submits an Installation Permit Application or a Closure Permit Application shall pay, in addition to the Filing Fee established in Rule 907, an additional fee for each underground storage tank in accordance with the following, except for gasoline stations:

Volume in Gallons	Fee
5,000 or less	\$50.00
5,001—15,000	\$100.00
15,001—100,000	\$200.00
100,001 and above	\$400.00

2. The fee for each tank to be installed or closed at a gasoline station is \$150.00, in addition to the Application Processing Fee established in Rule 907.

3. The Application Processing Fee**Table 6. Initial Registration, Permits, Renewals and Amendments to Permits Fees**

~~The application processing fees and initial registration, permits, renewal and Permit Fee amendments to permits fees shall be deposited simultaneously at the same time, but as separate fees. charges. If the Permit is denied, the corresponding fees are non-refundable.~~

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C. Operation Permit and Renewal

1. Any person that submits an Operation Permit Application or Renewal Permit application shall pay, in addition to the Filing Fee established in Rule 907, an additional fee for each underground storage tank in accordance with the following, except for gasoline stations:

Volume in Gallons	Fee
5,000 or less	\$150.00
5,001—15,000	\$300.00
15,001—100,000	\$600.00
100,001 and above	\$1,200.00

2. The fee for each tank to be operated or renewed at a gasoline station is \$450.00, in addition to the Application Processing Fee established in Rule 907.

3. The Application Processing Fee and Operation or Renewal Permit Fee shall be

deposited simultaneously, but as separate fees. If the Operation or Renewal Permit is denied, the corresponding fees are non-refundable.

D. Installation, Operation and Closure Permit Modifications

1. Any person that submits an Installation, Operation or Closure Permit Modifications Application shall pay, in addition to the Filing Fee established in Rule 907, an additional fee for each underground storage tank in accordance with the following, including gasoline stations:

a. **Minor modification:** Changes that not represent modifications to the UST system design. Only changes in the application or specific document. The fee is \$50.00.

b. **Major modification:** Changes that represent modifications to the UST system design and affect various documents previously submitted. The fee is \$150.00.

B. 2. If the Permit Modifications is denied and such determination is final, the corresponding fee are non-refundable Board shall not reimburse the charges.

C. Rule 909 Report Modifications:

e. **2. Minor modification:** Changes that do not represent design modifications to the UST System and are, only, changes to a specific application or document.

3. **Major modification:** Changes that represent Plan design modifications to the UST System and affect several documents filed previously.

Rule 939. Reports and Plans Evaluation Fees

Anyone who submits a Plan, Reports or plans submitted to the Board in order to comply with the requirements Results of this Regulationa Plan shall be exempt from filing fees established under pay a non-refundable administrative fee of fifty (\$ 50) dollars for processing the application.

Rule 907.

Rule 910 — 940. Fees for Copies of Records

Any applicationAll requests for duplicate records or copies of records, must be submitted in writing by the owner orand operator of the facility, if said record has been destroyed, lost or mutilated. A. For this purposes, a fee of fifty (\$0.40)50 cents per sheet feepage will be required for processing a record duplicate charged.

Rule 911 — 941. Exemptions from Fees

Public schools, hospitals and charitable institutions shall be exemptexempted from the

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~~feefees~~ requirements in ~~Rules 907, 908, 909, and 910~~this Part.

Rule ~~912~~ — 942. Test and Analysis Fees

~~A. The Board may, when deemed necessary, perform tests pertaining to UST systems.~~

~~B. If the Board decides to act in accordance with the authority provided under this Rule, the Board may notify the The owner or operator of this intention and will require any necessary services and appurtenances to perform said tests.~~

~~C.A.~~ The owner or and operator of the facility ~~willshall~~ pay a fee to cover the costs of monitoring, ~~analyses,~~ practice, analysis and ~~tests carried out~~testing by the Board.

1. After concluding the tests, the Board will provide written notice to the owner or operator of the facility concerning the fee to be paid.
2. These fees must be paid within thirty (30) days after the billing date.
3. After payment of the corresponding test or analysis fee has been received, the Board will provide a copy of the report to the facility owner or operator.

Rule ~~913~~ — 943. Fee Payment

Payment of all fees shall be made in cash, ~~personal checks,~~ certified checks or money orders, payable to the Secretary of the Treasury, ~~of the Commonwealth of Puerto Rico.~~ This payment must be made at the Finance Division of the Environmental Quality Board or at the Regional Offices of the ~~Environmental Quality~~EQB, to be deposited in a special account designated by the Board. The payment shall be made in the format to be adopted by the Board.

Rule ~~914~~ — 944. RESERVED

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~~PART XIII — OVERSIGHT PROCEEDINGS, PENALTIES AND RECOVERY~~

~~Rule 915 — Applicable Oversight Proceedings~~

~~A. — Non-Compliance Action~~

~~Non-compliance with any of the requirements or conditions imposed by the Board for granting a permit issued in compliance with this Regulation, as well as non-compliance with any applicable provision of this Regulation, is sufficient cause for initiating prosecution proceedings. Said proceedings may result in an administrative fine and the suspension or revocation of a granted permit.~~

~~B. — Other Actions~~

~~When deemed necessary, for the sake of public interest and security and the protection of the environment, the Board may order, prior to a public hearing, the cease and desist of activities at the project site, in accordance with Rule 810.G of this Regulation and Clauses 14, 19 and 22 of Article 11 of the Environmental Policy Act.~~

~~C. — Permit Reconsideration and Revocation~~

~~Any person to whom the Board revokes a permit issued in accordance with this Regulation, has the right to request a reconsideration of said decision by presenting a Motion for Reconsideration under the provisions of section 3.15 of the Uniform Administrative Proceedings Act, Law No. 170 of August 12, 1988, as amended, and the regulation adopted by the Board under its Law.~~

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~~Rule 916 — Penalties and Recovery Actions for Damages~~

~~A. — Administrative Fines~~

~~Prior to a hearing, the Board may impose administrative fines for any violation to the provisions of this Regulation and to the orders and decisions issued under its law or regulation. Administrative fines may ascend to twenty five thousand dollars (\$25,000) a day for each violation, each day for which the violation persists being considered a separate violation.~~

~~1. — Contumacy~~

~~If the Board determines that a person has acted in contumacy with respect to the commission or continuation of the actions for which an administrative fine has been imposed, or for the repetition or continuation of actions in violation to this Regulation, or for the non-compliance of any order or resolution from the Board, the Board, at its discretion, may impose an additional administrative fine of up to fifty thousand dollars (\$50,000) for any of these actions.~~

B. Criminal Sanctions

1. Violations to this Regulation

~~Any person who violates any provision of this Regulation or fails to comply with any order or resolution from the Board is subject to the criminal penalties established in Article 17 of the Environmental Public Policy Act.~~

2. Violations to the Certification Process

~~Any person who violates the provisions of this Regulation concerning the certification process, or who provides any false representation, certification or declaration under this Regulation, or who provides any false representation in any report required by the Board, will be subject to applicable penalties, in accordance with the Environmental Public Policy Act.~~

C. Recovery Actions

~~The Board may resort to any competent court to recover the total value of damages inflicted upon Puerto Rico's environment and/or natural resources, which were caused by any violation to this Regulation and the orders and decisions issued under its authority.~~

Rule 917 RESERVED

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